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Form 4A, 4B/ 84
Rule 6.2, 50.4, 50.12

SUMMONS

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Commercial
Registry	Supreme Court Sydney
Case number	2019/00244030

TITLE OF PROCEEDINGS

First Plaintiff	Martin John Fletcher
First Defendant	LENLEASE CORPORATION LIMITED ABN 32000226228
Second Defendant	LENLEASE RESPONSIBLE ENTITY LIMITED

FILING DETAILS

Filed for	Plaintiff[s]
Legal representative	Brett Spiegel
Legal representative reference	
Telephone	0391347123
Your reference	180017

HEARING DETAILS

Listed at Supreme Court Sydney on 16 August 2019 at 09:45 AM.

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Summons (e-Services), along with any other documents listed below, were filed by the Court.

Summons (UCPR 4A/4B/84/85) (Summons - Martin Fletcher ats Lendlease Corporation Limited & Anor.pdf)
Affidavit (Commercial List Statement - Martin Fletcher ats Lendlease Corporation Limited & Anor .pdf)

[attach.]

Form 4A (version 4)
UCPR 6.2

SUMMONS

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Equity
List	Commercial List (representative proceeding)
Registry	Sydney
Case number	

TITLE OF PROCEEDINGS

Plaintiff	Martin John Fletcher
First defendant	Lendlease Corporation Limited (ABN 32 000 226 228)
Second defendant	Lendlease Responsible Entity Limited (ABN 72 122 883 185) as responsible entity for the Lendlease Trust (ABN 39 944 184 773)

FILING DETAILS

Filed for	Martin John Fletcher Plaintiff
Legal representative	Benjamin James Yang Phi, Phi Finney McDonald
Legal representative reference	P0024050
Contact name and telephone	Brett Spiegel (03) 9134 7100

HEARING DETAILS

This summons is listed at

TYPE OF CLAIM

Commercially misleading conduct

RELIEF CLAIMED

On the grounds stated in the accompanying Commercial List Statement (**CLS**), the Plaintiff claims, on his own behalf and on behalf of the Group Members:

1. An order pursuant to section 1317HA(1) of the *Corporations Act 2001* (Cth) (**Corporations Act**) that the defendants pay compensation to the Plaintiff and Group Members for damage caused by its contravention of section 674(2) of the Corporations Act.
2. An order for damages pursuant to:
 - (a) section 1041I of the Corporations Act;
 - (b) section 12GF of the *Australian Securities and Investment Commission Act 2001* (Cth) (**ASIC Act**);
 - (c) section 236 of the *Australian Consumer Law* set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (**Australian Consumer Law**).
3. Interest.
4. Costs.
5. Such further or other order as the Court considers appropriate.

REPRESENTATIVE PROCEEDING

- 1 The Group Members to whom this proceeding relates are those persons referred to in paragraph 1 of the CLS.

Nature of claims and relief sought

- 2 The nature of the claims made by the Plaintiff on behalf of himself and Group Members are set out in Part A of the CLS.
- 3 The relief sought by the Plaintiff on behalf of himself and Group Members is set out above.

Common questions of law and fact

- 4 The questions of law or fact common to the claims of Group Members are (adopting the defined terms in the CLS):
 - (a) when the defendants became aware (within the meaning of Listing Rule 19.12) of the Inadequate Reporting Systems Information, Project Issues Information, Combined Systems and Project Issues Information, and/or the Continuing Systems and Project Issues Information;

- (b) whether the Inadequate Reporting Systems Information, Project Issues Information, Combined Systems and Project Issues Information, and/or the Continuing Systems and Project Issues Information was:
- (i) material information; and
 - (ii) not generally available,
- within the meaning of ASX Listing Rule 3.1 or Chapter 6CA of the Corporations Act, that the First Defendant was obliged to disclose but failed to disclose, such that the First Defendant contravened section 674(2) of the Corporations Act;
- (c) whether the Inadequate Reporting Systems Information, Project Issues Information, Combined Systems and Project Issues Information, and/or the Continuing Systems and Project Issues Information was:
- (i) material information; and
 - (ii) not generally available,
- within the meaning of ASX Listing Rule 3.1 or Chapter 6CA of the Corporations Act, that the Second Defendant was obliged to disclose but failed to disclose, such that the Second Defendant contravened sections 674(2) and 674(3) of the Corporations Act;
- (d) whether the defendants contravened sections 1041H of the Corporations Act, 12DA of the ASIC Act, and 18 of the Australian Consumer Law by making, maintaining and/or failing to qualify:
- (i) the 1H18 Financial Representations;
 - (ii) the 1H18 Financial Compliance Representations;
 - (iii) the August 2018 Provisioning and Margin Representations;
 - (iv) the FY18 Financial Representations;
 - (v) the FY18 Financial Compliance Representations;
 - (vi) the 9 November 2018 Representations;
 - (vii) the 16 November 2018 Representations; and/or
 - (viii) the Continuous Disclosure Compliance Representation;
- (e) whether the Market Contraventions had the effect that the price of acquisition for Lendlease Securities was greater than their true value and/or the market price that would have prevailed but for the Market Contraventions and if so:

- (f) whether statutory compensation and/or damages are recoverable by the Plaintiff and some or all of the Group Members;
- (g) the correct measure of the statutory compensation and/or damages for which the defendants may be liable to the Plaintiff and some or all of the Group Members.

SIGNATURE OF LEGAL REPRESENTATIVE

I certify under clause 4 of Schedule 2 to the [Legal Profession Uniform Law Application Act 2014](#) that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.

I have advised the Plaintiff that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature



Capacity

Solicitor on the Record

Date of signature

6 August 2019

NOTICE TO DEFENDANT

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the relief claimed in the summons and for the Plaintiff's costs of bringing these proceedings.

Before you can appear before the court you must file at the court an appearance in the approved form.

HOW TO RESPOND

Please read this summons very carefully. If you have any trouble understanding it or require assistance on how to respond to the summons you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the summons from:

A legal practitioner.

LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.

The court registry for limited procedural information.

Court forms are available on the UCPR website at www.ucprforms.justice.nsw.gov.au or at any NSW court registry.

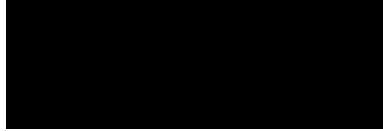
REGISTRY ADDRESS

Street address	Law Courts Building 184 Phillip Street Sydney NSW 2000 Australia
Postal address	Supreme Court of New South Wales GPO Box 3 Sydney NSW 2001 Australia
Telephone	1300 679 272

FURTHER DETAILS ABOUT PLAINTIFF

Plaintiff

Name Martin John Fletcher



Legal representative for Plaintiff

Name Benjamin James Yang Phi
 Practising certificate number P0024050
 Firm Phi Finney McDonald
 Contact solicitor Brett Spiegel
 Address Level 4, Customs House
 325 Flinders Lane
 Melbourne VIC 3000
 DX address N/A
 Telephone (03) 9134 7100
 Fax N/A
 Email brett.spiegel@phifinneycdonald.com
 Electronic service address brett.spiegel@phifinneycdonald.com

DETAILS ABOUT DEFENDANTS

First defendant

Name Lendlease Corporation Limited (ABN 32 000 226 228)
 Address Level 14, International Towers
 Sydney Exchange Place
 'Tower Three'
 300 Barangaroo Avenue
 Barangaroo NSW 2000

Second defendant

Name Lendlease Responsible Entity Limited (ABN 72 122 883 185)
 as responsible entity for the Lendlease Trust (ABN 39 944 184 773)
 Address Level 14, International Towers
 Sydney Exchange Place
 'Tower Three'
 300 Barangaroo Avenue
 Barangaroo NSW 2000

Practice Note No. SC Eq 3

COMMERCIAL LIST STATEMENT**COURT DETAILS**

Court	Supreme Court of New South Wales
Division	Equity
List	Commercial List (representative proceeding)
Registry	Sydney
Case number	

TITLE OF PROCEEDINGS

Plaintiff	Martin John Fletcher
First defendant	Lendlease Corporation Limited (ABN 32 000 226 228)
Second defendant	Lendlease Responsible Entity Limited (ABN 72 122 883 185) as responsible entity for the Lendlease Trust (ABN 39 944 184 773)

FILING DETAILS

Filed for	Martin John Fletcher Plaintiff
Legal representative	Benjamin James Yang Phi, Phi Finney McDonald
Legal representative reference	P0024050
Contact name and telephone	Brett Spiegel (03) 9134 7100
Contact email	brett.spiegel@phifinneymcdonald.com

A. NATURE OF THE DISPUTE

1. The Plaintiff brings this proceeding on his own behalf and on behalf of represented persons pursuant to Part 10 of the *Civil Procedure Act 2005* (NSW) who acquired interests in:
 - (a) fully stapled securities in the First Defendant, Lendlease Corporation Limited, and the Second Defendant, Lendlease Responsible Entity Limited; or
 - (b) American Depositary Receipts that represent the fully stapled securities in the defendants, between 17 October 2017 and 25 February 2019.

2. The proceeding concerns allegations that:
 - (a) the defendants contravened ASX Listing Rule 3.1 and s 674 of the *Corporations Act 2001* (Cth) by failing to notify the Australian Stock Exchange of information of which it was aware (within the meaning of ASX Listing Rule 19.12 of the Listing Rules of the Australian Securities Exchange, and which a reasonable person would expect to have a material effect on the price or value of the defendants'

securities within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the *Corporations Act 2001* (Cth);

- (b) the defendants contravened ss 1041H of the *Corporations Act 2001* (Cth), 12DA of the *Australian Securities and Investments Commission Act 2001* (Cth), and/or 18 of the *Australian Consumer Law* set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) by:
 - (i) making representations concerning its financial performance and position that were misleading or deceptive or likely to mislead or deceive; or
 - (ii) engaged in conduct, by maintaining and/or failing to correct or qualify representations, that was misleading or deceptive or likely to mislead or deceive;
- (c) when corrective disclosures were made to the market on 9 November 2018 and 25 February 2019 (expressly or by implication), the price of the defendants' securities declined substantially;
- (d) by reason of the defendants' contraventions referred to above, the defendants caused the defendants' securities to trade on the ASX and the over-the-counter market in the United States of America at a price greater than their true value and/or the market price that would have prevailed had the defendants' contraventions not occurred;
- (e) alternatively, by reason of the defendants' contraventions referred to above, the Plaintiff and represented persons would not have entered into the transactions pursuant to which they acquired an interest in the defendants' securities if they had known the information the subject of the defendants' contraventions of the continuous disclosure obligations, or relied on some or all of the defendants' representations in entering into the transactions pursuant to which they acquired an interest in the defendants' securities; and
- (f) in the circumstances, the Plaintiff and represented persons have suffered loss and damage resulting from the defendants' contraventions.

B. ISSUES LIKELY TO ARISE

1. Adopting the defined terms in Part C below, the questions of law or fact common to the claims of the Group Members are:

- (a) when the defendants became aware (within the meaning of ASX Listing Rule 19.12) of the Inadequate Reporting Systems Information, Project Issues Information, Combined Systems and Project Issues Information, and/or the Continuing Systems and Project Issues Information;
- (b) whether the Inadequate Reporting Systems Information, Project Issues Information, Combined Systems and Project Issues Information, and/or the Continuing Systems and Project Issues Information was:
 - (i) material information; and
 - (ii) not generally available,
within the meaning of ASX Listing Rule 3.1 or Chapter 6CA of the Corporations Act, that the First Defendant was obliged to disclose, but failed to disclose, such that the First Defendant contravened s 674(2) of the Corporations Act;
- (c) whether the Inadequate Reporting Systems Information, Project Issues Information, Combined Systems and Project Issues Information, and/or the Continuing Systems and Project Issues Information was:
 - (i) material information; and
 - (ii) not generally available,
within the meaning of ASX Listing Rule 3.1 or Chapter 6CA of the Corporations Act, that the Second Defendant was obliged to disclose, but failed to disclose, such that the Second Defendant contravened ss 674(2) and 674(3) of the Corporations Act;
- (d) whether the defendants contravened ss 1041H of the Corporations Act, 12DA of the ASIC Act , and/or 18 of the Australian Consumer Law by making, maintaining and/or failing to qualify:
 - (i) the 1H18 Financial Representations;
 - (ii) the 1H18 Financial Compliance Representations;
 - (iii) the August 2018 Provisioning and Margin Representations;
 - (iv) the FY18 Financial Representations;

- (v) the FY18 Financial Compliance Representations;
 - (vi) the 9 November 2018 Representations;
 - (vii) the 16 November 2018 Representations; and/or
 - (viii) the Continuous Disclosure Compliance Representation;
- (e) whether the Market Contraventions had the effect that the price of acquisition for Lendlease Securities was greater than their true value and/or the market price that would have prevailed but for the Market Contraventions and if so:
- (i) whether statutory compensation and/or damages are recoverable by the Plaintiff and some or all of the Group Members;
 - (ii) the correct measure of the statutory compensation and/or damages for which the defendants may be liable to the Plaintiff and some or all of the Group Members; and
 - (iii) whether any, and if so what, relief other than monetary relief should be granted in favour of the Plaintiff and some or all of the Group Members.
2. The following additional questions will arise in respect of the Plaintiff and some Group Members individually:
- (a) whether the Plaintiff and some Group Members would not have entered into the transactions pursuant to which they acquired an interest in the Lendlease Securities if they had known the information the subject of the Inadequate Reporting Systems Continuous Disclosure Contravention, Project Issues Continuous Disclosure Contravention, Combined Systems and Project Issues Information, and Continuing Systems and Project Issues Continuous Disclosure Contravention; and
 - (b) whether the Plaintiff and some Group Members relied on some or all of the 1H18 Financial Representations, the 1H18 Financial Compliance Representations, the August 2018 Provisioning and Margin Representations, the FY18 Financial Representations, the FY18 Financial Compliance Representations, the 9 November 2018 Representations, the 16 November 2018 Representations; and/or the Continuous Disclosure Compliance Representation in entering into

the transactions pursuant to which they acquired an interest in the Lendlease Securities.

C. PLAINTIFF'S CONTENTIONS

A. THE PARTIES

A.1 The Plaintiff and the Group Members

1. This proceeding is commenced as a representative proceeding pursuant to Part 10 of the *Civil Procedure Act 2005* (NSW) by the Plaintiff on its own behalf and on behalf of all persons who or which:
 - (a) acquired an interest in:
 - (i) fully paid stapled securities in the First Defendant, LendLease Corporation Limited (**LendLease Corporation**), and LendLease Trust (Australian Registered Scheme No. 128 052 595) (**LendLease Trust**), being shares in LendLease Corporation Limited and units in the LendLease Trust (**LendLease Stapled Securities**); and/or
 - (ii) American Depositary Receipts that represent LendLease Stapled Securities (**LendLease ADRs**);

(**LendLease Securities**) during the period between 17 October 2017 and 25 February 2019 (inclusive) (**Relevant Period**);
 - (b) have suffered loss or damage by reason of the conduct of LendLease Corporation and the Second Defendant, LendLease Responsible Entity Limited (**LendLease Responsible Entity**) (collectively, **LendLease**) pleaded in this Commercial List Statement; and
 - (c) were not during any part of the Relevant Period, and are not as at the date of this Commercial List Statement, any of the following:
 - (i) a related party (as defined by s 228 of the *Corporations Act 2001* (Cth) (**Corporation Act**) of LendLease;
 - (ii) a related body corporate (as defined by s 50 of the *Corporations Act*) of LendLease;

- (iii) an associated entity (as defined by s 50AAA of the Corporations Act) of LendLease;
- (iv) an officer or a close associate (as defined by s 9 of the Corporations Act) of LendLease; and
- (v) the Chief Justice, a Justice, or Registrar of the Supreme Court of New South Wales or the High Court of Australia,

(Group Members).

2. The Plaintiff:

- (a) is and was at all material times a resident of the State of Victoria; and
- (b) acquired an interest in LendLease Securities during the Relevant Period.

Particulars

i) *Details of the particular acquisitions of LendLease Securities by the Plaintiff are set out below:*

Date	Transaction type	Number of LendLease Securities	Price
27/09/2018	Buy	1000	19.78

3. Immediately prior to the commencement of this proceeding, the group, on whose behalf this proceeding is brought, comprised more than seven persons.

A.2 The Defendants

A.2.1 Introduction

4. LendLease Corporation is and at all material times was:

- (a) incorporated pursuant to the Corporations Act and capable of being sued;
- (b) a person within the meaning of s 1041H of the Corporations Act;
- (c) a person within the meaning of s 12DA of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**);
- (d) a person within the meaning of s 18 of the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (**CCA**), as applicable pursuant to:

- (i) s 131 of the CCA;
- (ii) s 7 of the *Fair Trading (Australian Consumer Law) Act 1992* (ACT);
- (iii) s 28 of the *Fair Trading Act 1987* (NSW);
- (iv) s 8 of the *Australian Consumer Law and Fair Trading Act 2012* (Vic);
- (v) s 16 of the *Fair Trading Act 1989* (Qld);
- (vi) s 6 of the *Australian Consumer Law (Tasmania) Act 2010* (Tas);
- (vii) s 19 of the *Fair Trading Act 2010* (WA);
- (viii) s 14 of the *Fair Trading Act 1987* (SA); and/or
- (ix) s 27 of the *Consumer Affairs and Fair Trading Act* (NT),

as in force after 1 January 2011 (individually, or together, the **Australian Consumer Law**).

5. LendLease Responsible Entity is and at all material times was:
- (a) incorporated pursuant to the Corporations Act and is capable of being sued;
 - (b) a person within the meaning of s 1041H of the Corporations Act;
 - (c) a person within the meaning of s 12DA of ASIC Act;
 - (d) a person within the meaning of s 18 of the Australian Consumer Law.
6. At all material times, LendLease Responsible Entity:
- (a) was the trustee of the LendLease Trust;
 - (b) operated, managed and was the responsible entity of the LendLease Trust for the purposes of Part 5C.2 of the Corporations Act; and
 - (c) was a wholly owned subsidiary of LendLease Corporation.

B. LENDLEASE'S BUSINESS

B.1 LendLease's Business

7. At all material times, LendLease Corporation:

- (a) carried on business as a global infrastructure, construction and property development corporation;
- (b) was the consolidated reporting entity for LendLease and its subsidiaries (which included LendLease Responsible Entity), within the meaning of Australian Accounting Standard AASB 10 ("Consolidated Financial Statements") and AASB 127 ("Separate Financial Statements"); and
- (c) had three operating segments, being:
 - (i) Construction (**Construction Segment**);
 - (ii) Development; and
 - (iii) Investment.

8. The Construction Segment:

- (a) at all material times, provided management, design and construction services for internal and external clients of LendLease across the residential, office, retail, health, defence and transport sectors;
- (b) at all material times, comprised:
 - (i) the Engineering and Services Business (**Engineering and Services Business**); and
 - (ii) the Building division;
- (c) in the period FY15 to FY18 was reported to have achieved the following financial performance:

Financial Year	Revenue	EBITDA
FY15	10,937M	279M

FY16	12,032M	288.1M
FY17	12,645M	338.3M
FY18	12,940M	78.2M

Particulars

- i) *'LendLease 2016 Full Year Results' presentation published and lodged by LendLease to the ASX on 19 August 2016, p. 8.*
- ii) *'LendLease 2017 Full Year Results' presentation published and lodged by LendLease to the ASX on 28 August 2017, pp. 9 and 11.*
- iii) *'LendLease 2018 Full Year Results' presentation published and lodged by LendLease to the ASX on 22 August 2018, pp. 10 and 14.*

- (d) by reason of the matters pleaded in sub-paragraph (c) above, contributed the following portion of LendLease's reported revenue and EBITDA:

Financial Year	Revenue	EBITDA
FY15	82.35%	24.41%
FY16	79.66%	27.31%
FY17	75.85%	28.15%
FY18	78.1%	6.28%

Particulars

- i) *The particulars to subparagraph (c) are repeated.*

- (e) by reason of the matters pleaded in sub-paragraph (c) above, had been steadily growing in the period FY15 to FY17.

9. At all material times during the Relevant Period, the Engineering and Services Business, in Australia:

- (a) constructed major transport infrastructure projects including road, rail, bridges and tunnels;

- (b) provided support and maintenance to transport, communities, telecommunications, utilities, industrial and resources, and renewable energy infrastructure;
- (c) generated revenue via, among other things:
 - (i) project management fees;
 - (ii) construction management fees; and
 - (iii) margins on construction projects.

Particulars

- i) LendLease Annual Report for the year ended 30 June 2017 published and lodged by LendLease to the ASX on 28 August 2017 (FY17 Annual Report) at p.30.*
- ii) LendLease Annual Report for the year ended 30 June 2018 published and lodged by LendLease to the ASX on 22 August 2018 (FY18 Annual Report) at p.32.*

10. At all material times during the Relevant Period, the major projects conducted by the Engineering and Services Business included:
- (a) the NorthConnex Tunnel (**NorthConnex Project**);
 - (b) the Gateway Upgrade North project (**Gateway Upgrade Project**);
 - (c) the Kingsford Smith Drive Upgrade project (**Kingsford Upgrade Project**); and
 - (d) the Melbourne Metro Tunnel project (**Melbourne Metro Project**).

B.2 The market disclosure regime governing LendLease

11. LendLease Corporation and the LendLease Trust are, and at all material times were, included in the official list of the financial market operated by the ASX, and by reason thereof, LendLease Stapled Securities are:
- (a) ED securities for the purpose of s 111AE of the Corporations Act, and quoted ED securities within the meaning of s 111AM of the Corporations Act; and

- (b) able to be purchased and sold by investors and potential investors in LendLease Securities (**Affected Market**) on the financial market operated by the ASX.

12. LendLease Corporation is and was at all material times:

- (a) a public company within the meaning of s 9 of the Corporations Act;
- (b) a listed disclosing entity within the meaning of s 111AC(1) of the Corporations Act;
- (c) a listed disclosing entity within the meaning of s 111AL(1) of the Corporations Act;
- (d) subject to and bound by Part 2M.3 of the Corporations Act, including being obliged:
 - (i) by ss 292 and 295 of the Corporations Act, to prepare a financial report for a financial year (including FY18), consisting of the financial statements for the year, the notes to the financial statements and the directors' declaration about the statements and notes (**FY Financial Report**), which:
 - (A) complies with accounting standards, as required by s 296 of the Corporations Act, including Australian Accounting Standard 101 (*"Presentation of Financial Statements"*) (**AASB101**); Australian Accounting Standard 110 (*"Events after the Reporting Period"*) (**AASB110**); and Australian Accounting Standard 111 (*"Construction Contracts"*) (**AASB111**);
 - (B) gives a true and fair view of the financial position and performance of LendLease, and the consolidated entity comprising LendLease and its subsidiaries, as required by s 297 of the Corporations Act;
 - (ii) by ss 314 and 315(1) of the Corporations Act, to provide the FY Financial Report to the members of LendLease by no later than 21 days before the next Annual General Meeting of the members of LendLease after the end of the financial year, or 4 months after the end of the financial year (whichever is the earlier);

- (iii) by s 319 of the Corporations Act, to lodge the FY Financial Report with the Australian Securities and Investments Commission (**ASIC**) within 3 months of the end of the financial year;
- (iv) by ss 302 and 303 of the Corporations Act, to prepare a financial report for a half-year (including 1H18), consisting of the financial statements for the half-year the notes to the financial statements and the directors' declaration about the statements and notes (**1H Financial Report**), which:
 - (A) complies with accounting standards, as required by s 304 of the Corporations Act, including AASB101, AASB110 and AASB111;
 - (B) gives a true and fair view of the financial position and performance of LendLease, and the consolidated entity comprising LendLease and its subsidiaries, as required by s 305 of the Corporations Act; and
- (v) by s 320 of the Corporations Act, to lodge the 1H Financial Report with the ASIC within 75 days after the end of the half-year,

(Statutory Reporting Obligations).

- (e) subject to and bound by the Australian Stock Exchange Listing Rules (**ASX Listing Rules**);
- (f) obliged by Listing Rule 4.5, to give the Australian Stock Exchange (**ASX**) a copy of the documents which it must lodge with the ASIC under s 319 of the Corporations Act at the same time as it lodges them with the ASIC;
- (g) obliged by ss 111AP(1) and/or 674(1) of the Corporations Act and/or ASX Listing Rule 3.1 to, once it is, or becomes aware of, any information concerning LendLease that a reasonable person would expect to have a material effect on the price or value of LendLease Securities, tell the ASX that information immediately (unless the exceptions in ASX Listing Rule 3.1A apply (**LendLease Corporation Continuous Disclosure Obligations**));
- (h) a party to an arrangement with the Bank of New York Mellon pursuant to which the Bank of New York Mellon issues LendLease ADRs (at a ratio of 1 LendLease ADR to 1 LendLease Stapled Security) which are traded on the Over the Counter (**OTC**) Market in the United States of America under the ticker "LLESY".

13. LendLease Trust is and was at all material times:
- (a) a listed disclosing entity within the meaning of s 111AL(1) of the Corporations Act;
 - (b) subject to and bound by the ASX Listing Rules; and
 - (c) obliged by ss 111AP(1) and/or 674(1) of the Corporations Act and/or ASX Listing Rule 3.1 to, once it is, or becomes, aware of any information concerning the LendLease Trust that a reasonable person would expect to have a material effect on the price or value of unit in the LendLease Trust and/or LendLease Stapled Securities, tell the ASX that information immediately (unless the exceptions in ASX Listing Rule 3.1A apply) (**LendLease Trust Continuous Disclosure Obligations**).
14. By reason of the matters pleaded in paragraphs 11 and 13 above, LendLease Responsible Entity is and was at all material times obliged by s 674(3) of the Corporations Act to perform the LendLease Trust Continuous Disclosure Obligations (**LendLease Responsible Entity Continuous Disclosure Obligations**).

B.3 Directors and officers of LendLease

B.3.1 The Group CEO and Managing Director

15. Mr Steven McCann (**Mr McCann**) was:
- (a) from December 2008 to the date of the commencement of this proceeding, the Group Chief Executive Officer of LendLease Corporation;
 - (b) from 4 March 2009 to the date of the commencement of this proceeding, the Managing Director of LendLease Corporation;
 - (c) from 30 October 2009 to the date of the commencement of this proceeding, a director of LendLease Responsible Entity;
 - (d) at all material times, a standing invitee of the LendLease Risk Management and Audit Committee (**Audit Committee**); and
 - (e) at all material times, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

B.3.2 The Chairman

16. Mr David Crawford (**Mr Crawford**) was:
- (a) from 19 July 2001 to 16 November 2018, an independent director of LendLease Corporation;
 - (b) from 29 May 2003 to 16 November 2018, the Independent Chairman of LendLease Corporation;
 - (c) from 30 October 2009 to 16 November 2018, an independent director and Chairman of LendLease Responsible Entity;
 - (d) at all material times until 16 November 2018, a standing invitee of the Audit Committee; and
 - (e) at all material times until 16 November 2018, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

B.3.3 Non-executive directors

17. Mr David Ryan (**Mr Ryan**) was:
- (a) from 10 December 2004 to 17 November 2017, an independent director of LendLease Corporation;
 - (b) from 30 October 2009 to 17 November 2017, an independent director of LendLease Responsible Entity; and
 - (c) at all material times until 17 November 2017, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
18. Mr Phillip Colebatch (**Mr Colebatch**) was:
- (a) from 1 December 2005 to 16 November 2018, an independent director of LendLease Corporation;
 - (b) from 30 October 2009 to 16 November 2018, an independent director of LendLease Responsible Entity;
 - (c) at all material times until 16 November 2018, a member of the Audit Committee; and

- (d) at all material times until 16 November 2018, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
19. Ms Jane Hemstritch (**Ms Hemstritch**) was:
- (a) from 1 September 2011 to the date of the commencement of this proceeding, an independent director of LendLease;
 - (b) during the Relevant Period, a member of the Audit Committee; and
 - (c) at all material times, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
20. Mr Michael Ullmer (**Mr Ullmer**) was:
- (a) from 1 December 2011 to the date of the commencement of this proceeding, an independent director of LendLease;
 - (b) at all material times, a member of the Audit Committee; and
 - (c) at all material times, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
21. Mr Colin Carter (**Mr Carter**) was:
- (a) from 2 April 2012 to the date of the commencement of this proceeding, an independent director of LendLease; and
 - (b) at all material times, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
22. Ms Nicola Wakefield Evans (**Ms Wakefield Evans**) was:
- (a) from 1 September 2013 to the date of the commencement of this proceeding, an independent director of LendLease;
 - (b) at all material times, a member of the Audit Committee; and
 - (c) at all material times, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
23. Mr Stephen Dobbs (**Mr Dobbs**) was:

- (a) from 1 January 2015 to the date of the commencement of this proceeding, an independent director of LendLease;
- (b) at all material times, a member of the Audit Committee; and
- (c) at all material times, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

24. Mr David Craig (**Mr Craig**) was:

- (a) from 1 March 2016 to the date of the commencement of this proceeding, an independent director of LendLease;
- (b) at all material times, the Chairman of the Audit Committee; and
- (c) at all material times, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

25. Mr Philip Coffey (**Mr Coffey**) was:

- (a) from 1 January 2017 to the date of the commencement of this proceeding, an independent director of LendLease;
- (b) during the Relevant Period, a member of the Audit Committee; and
- (c) at all material times, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

26. Ms Elizabeth Proust (**Ms Proust**) was:

- (a) From 1 February 2018 to the date of the commencement of this proceeding, an independent director of LendLease; and
- (b) at all material times from 1 February 2018, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

B.3.4 Company Secretary

27. Ms Wendy Lee (**Ms Lee**) was:

- (a) from 25 January 2010 to the date of the commencement of this proceeding, the Company Secretary of LendLease; and

- (b) at all material times, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

B.4 Other officers

28. Mr Tarun Gupta (**Mr Gupta**) was:

- (a) from 1 May 2016 to the date of the commencement of this proceeding, the Chief Financial Officer of LendLease Corporation; and
- (b) at all material times, an officer of LendLease Corporation within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

29. Ms Karen Pederson (**Ms Pederson**) was:

- (a) from January 2013 to the date of the commencement of this proceeding, the Group General Counsel of LendLease Corporation; and
- (b) at all material times, an officer of LendLease Corporation within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

30. Mr Anthony Lombardo (**Mr Lombardo**) was:

- (a) from 1 May 2016 to the date of the commencement of this proceeding, the Chief Executive Officer (Asia) of LendLease Corporation; and
- (b) at all material times, an officer of LendLease Corporation within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

31. Ms Luisa Megale (**Ms Megale**) was:

- (a) from April 2017 to the date of the commencement of this proceeding, the Group Head of Corporate Affairs and Marketing of LendLease Corporation;
- (b) from at least July 2017 to the date of the commencement of this proceeding, the Corporate Disclosure Manager of LendLease Corporation; and
- (c) at all material times, an officer of LendLease Corporation within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

32. Mr Craig Laslett (**Mr Laslett**) was:

- (a) from January 2016 to the date of the commencement of this proceeding, the Chief Executive Officer (Engineering and Services Australia) of LendLease Corporation; and
- (b) at all material times, an officer of LendLease Corporation within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

33. Mr Dale O'Connor (**Mr O'Connor**) was:

- (a) from March 2015 to the date of the commencement of this proceeding, the Chief Executive Officer (Building Australia) of LendLease Corporation; and
- (b) at all material times, an officer of LendLease Corporation within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

34. Mr David Andrew Wilson (**Mr Wilson**) was:

- (a) from 15 January 2018 to the date of the commencement of this proceeding, the Chief Commercial and Risk Officer of LendLease Corporation; and
- (b) at all material times from 15 January 2018, an officer of LendLease within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

35. Mr Johannes Dekker (**Mr Dekker**) was:

- (a) from 1 May 2018 to the date of the commencement of this proceeding, the Group Head of Engineering and Building of LendLease Corporation; and
- (b) at all material times from 1 May 2018, an officer of LendLease Corporation within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

B.5 The knowledge of the officers of LendLease is the knowledge of LendLease

36. By reason of the matters pleaded in paragraphs 15 to 26, any information of which each of:

- (a) Mr McCann;
- (b) Mr Crawford;
- (c) Mr Ryan;

- (d) Mr Colebatch;
- (e) Ms Hemstritch;
- (f) Mr Ullmer;
- (g) Mr Carter;
- (h) Ms Wakefield Evans;
- (i) Mr Dobbs;
- (j) Mr Craig;
- (k) Mr Coffey; and
- (l) Ms Proust,

(together, **LendLease Board**) became aware, or which ought reasonably to have come into his or her possession in the course of the performance of his or her respective duties as an officer of LendLease, was information of which LendLease was aware (as awareness is defined in ASX Listing Rule 19.12).

37. By reason of the matters pleaded in paragraphs 27 to 35 any information of which each of:

- (a) Ms Lee;
- (b) Mr Gupta;
- (c) Ms Pederson;
- (d) Mr Lombardo;
- (e) Ms Megale;
- (f) Mr Laslett;
- (g) Mr O'Connor;
- (h) Mr Wilson; and
- (i) Mr Dekker,

(together, **LendLease Officers**) became aware, or which ought reasonably to have come into his or her possession in the course of the performance of his or her

respective duties as an officer of LendLease, was information of which LendLease was aware (as awareness is defined in ASX Listing Rule 19.12).

C. OCTOBER 2017 CONTRAVENTIONS

C.1 October 2017 true position and knowledge

C.1.1 *The Inadequate Reporting Systems Information*

38. At all material times throughout the Relevant Period, alternatively from 21 February 2018, LendLease did not have adequate cost, financial and/or progress reporting systems in the Engineering and Services Business such that it did not, and could not record, provide an accurate assessment of, or provide clear visibility as to LendLease's:

- (a) current progress; and/or
- (b) current financial performance,

for the projects in the Engineering and Services Business including the NorthConnex Project, Gateway Upgrade Project and Kingsford Upgrade Project to enable an accurate forecast of LendLease's future financial performance to be made (the **Inadequate Reporting Systems Information**).

Particulars

The Inadequate Reporting Systems Information is to be inferred from the following:

- i) *Prior to 17 October 2017, LendLease had downgraded earnings or reported underperformance from the Construction Segment and/or Engineering and Services Business on two occasions since 2013:*
 - A) *ASX Announcement published and lodged to the ASX by LendLease on 17 June 2013 entitled 'Sale of LL stake in Jem Singapore and market update' at pp. 1-2; and*
 - B) *ASX Announcement published and lodged to the ASX by LendLease on 29 June 2015 entitled 'Wholesale fund established to invest in Tower' at p.2.*
- ii) *During the Relevant Period, LendLease continued to downgrade earnings or report underperformance from the Construction Segment and/or Engineering and Services Business:*
 - A) *ASX Announcement published and lodged to the ASX by LendLease on 17 October 2017 entitled 'LendLease*

- Retirement Living transaction and market update' (17 October 2017 Announcement) at p. 1;*
- B) *ASX Announcement published and lodged to the ASX by LendLease on 21 February 2018 entitled '1H18 Results Announcements and Market Presentation' (21 February 2018 Presentation) at p.2 of announcement;*
 - C) *Transcript of Half Year 2018 LendLease Group Earnings Presentation briefing dated 21 February 2018 (21 February 2018 Briefing Transcript) at pp.3 and 9;*
 - D) *ASX Announcement published and lodged to the ASX by LendLease on 22 August 2018 entitled '1H18 Results Announcements and Market Presentation' (22 August 2018 Results Presentation) at p.2 of announcement;*
 - E) *Transcript of Full Year 2018 LendLease Group Earnings Presentation briefing dated 22 August 2018 (22 August 2018 Briefing Transcript) at pp.3, 5, 6, and 8;*
 - F) *ASX Announcement published and lodged to the ASX by LendLease on 9 November 2018 entitled 'Australian Engineering and Services Business Update' (9 November 2018 Announcement) at p. 1;*
 - G) *ASX Announcement published and lodged to the ASX by LendLease on 25 February 2019 entitled 'LL 2019 HY Results Announcement, Presentation and Appendix' (25 February 2019 Presentation) at pp. 3 and 11; and*
 - H) *Transcript of Half Year 2019 LendLease Group Earnings Presentation briefing dated 25 February 2019 (25 February 2019 Briefing Transcript) at pp. 3, 5 and 13.*
- iii) *On 21 February 2018, LendLease:*
- A) *took an approximately \$190m provision against underperforming projects in the Engineering and Services Business: Macquarie Group 'Back in 2014' analyst report dated 22 February 2018 (22 February 2018 Macquarie Report), pp. 1-3;*
 - B) *stated that it "continued to invest in our capability" and would devote "management focus on underperforming Engineering projects" to improve the performance of the Engineering and Services Business: 21 February 2018 Presentation at p.3 of announcement, and at p.21 of presentation;*
 - C) *stated that as at 21 February 2018, the underperforming projects were "all at least 50% complete, so obviously we're working on considerable information from performance to date": 21 February 2018 Briefing Transcript at p 9;*
 - D) *stated that the underperforming projects were impacted by "logistics and geotechnical" problems that were "project-specific": 21 February 2018 Presentation at p.8 of presentation;*

- E) *stated that “the revenue backlog associated with the underperforming projects accounts for 20% of the total engineering backlog”: 21 February 2018 Briefing Transcript, p 4, and 21 February 2018 Presentation at p.8 of presentation;*
 - F) *stated that the underperforming projects would impact margin until completion: 21 February 2018 Presentation at p.8 of presentation;*
 - G) *stated that “[t]he impact of expected losses has been recognised in the result for the period, including the reversal of previously booked margin. These projects will not contribute margin for the remaining lives of the projects and will therefore impact the overall EBITDA margin of the segment until they complete”: Appendix 4D and Half Year Consolidated Financial Report published and lodged to the ASX by LendLease on 21 February 2018 (1H18 Report) at p.9.*
- iv) *During May 2018, LendLease appointed Mr Dekker to the position of Group Head of Building and Engineering:*
- A) *in the context of LendLease “making significant changes to [the Engineering and Services Business] including strengthening the leadership”: 9 November 2018 Announcement at p.1; and*
 - B) *“to enable [the Engineering and Services Business] to reach their full potential”: 22 August 2018 Briefing Transcript at p.8.*
- v) *On 9 November 2018, LendLease announced to the market that:*
- A) *it “identified further underperformance in the financial position of its Engineering and Services Business. To account for this underperformance it is anticipated LendLease will take a provision in the order of \$350 million after tax for 1H19”; and*
 - B) *“the underperformance predominantly relates to further deterioration in the small number of projects previously identified”;*
(9 November 2018 Announcement at p.1).
- vi) *On 16 November 2018, LendLease confirmed that the issues with the Engineering and Services Business were not isolated to the projects previously identified. McCann stated:*
- A) *“Approximately 90 per cent of the \$350 million post tax provision [arising from underperforming projects in the Engineering and Services Business] relates to three projects”;*
 - B) *“Further deterioration on NorthConnex [Project] and two other projects was identified during reviews completed last week”;*
 - C) *in relation to the NorthConnex Project, “productivity rates and costs on recently commenced phases of work have*

not achieved our estimates and we now have reforecast these costs. We have also reforecast costs arising from an acceleration of the mechanical and electrical works, the final major phase of the NorthConnex Project”;

- D) in relation to the second project, it had “experienced unforeseen access issues resulting in our team not being able to work the number of hours per month required to finish the project within the forecast program. Associated delays including inclement weather have resulted in higher estimated costs to complete”;* and
- E) in relation to the third project, LendLease “recently identified a defect in the design undertaken by external design consultants. This design defect has meant the work is outside the required tolerances and therefore requires rectification. In addition to the costs of rectification work, this has resulted in increased provisions for delay and other ancillary costs.”*

(ASX Announcement published and lodged to the ASX by LendLease on 16 November 2018 entitled ‘2018 Annual General Meetings – Chairman and Chief Executive Officer & Managing Director Addresses’, pp.2-3 of McCann Address (16 November 2018 Chairman Address)).

- vii) The ‘second project’ referred to in particular vi) D) above, was the Gateway Upgrade Project: 25 February 2019 Briefing Transcript at p. 8. The Gateway Upgrade Project was subject to 165mm less rainfall than the historical average for the period July to October 2018: Credit Suisse analyst report entitled ‘Minor updates on the engineering challenges’, dated 16 November 2018 at p.1.*
- viii) The ‘third project’ referred to in particular vi) E) above, was the Kingsford Upgrade Project: 25 February 2019 Briefing Transcript at p. 8. The Kingsford Upgrade Project was subject to defective design work related to piling in certain sections of the project: Macquarie Research analyst report entitled ‘Pressure ‘piling’ on’, dated 26 November 2018 at p.1; Courier Mail media article entitled ‘LendLease explains why Kingsford Smith Drive Upgrade is delayed and how it will impact you’, dated 28 November 2018 quoting Brisbane Lord Mayor Graham Quirk.*
- ix) On 25 February 2019, LendLease announced to the market that it had identified further deterioration in expected performance on its Engineering and Services Business projects that would require it to provide an “indemnity for future performance” to potential purchasers of the impugned business as part of “restructuring costs”: 25 February 2019 Briefing Transcript at p.9; Macquarie Research analyst report entitled ‘Tunnel Vision’ dated 21 May 2019 at p.4.*

39. At all material times in the Relevant Period, LendLease was aware (within the meaning of ASX Listing Rule 19.12) of the Inadequate Reporting Systems Information.

Particulars

- i) *The LendLease Board and LendLease Officers (as applicable) ought reasonably to have become aware of the Inadequate Reporting Systems Information:*
 - A) *by reason of the matters identified in the particulars to paragraph 38; and*
 - B) *otherwise in the course of carrying out their duties.*
- ii) *Further and alternatively, it can be inferred that LendLease Officers (as applicable) became actually aware of the Inadequate Reporting Systems Information from the following:*
 - A) *On 17 October 2017, LendLease announced that “[t]he composition of the FY18 result is expected to be impacted by underperformance in our Australian construction business which relates to a small number of engineering projects. As a result, the HY18 EBITDA contribution from the Australian construction business is expected to be lower than the prior corresponding period”: 17 October 2017 Announcement at p.2.*
 - B) *On 21 February 2018, LendLease:*
 - 1) *took an approximately \$190m provision against the underperforming projects in the Engineering and Services Business: 22 February 2018 Macquarie Report at pp.1-3; and*
 - 2) *stated that it “continued to invest in our capability” and would devote “management focus on underperforming Engineering projects” to improve the performance of the Engineering and Services Business: 21 February 2018 Presentation at p.3 of announcement, and p. 21 of presentation.*
 - C) *During May 2018, LendLease appointed Mr Dekker to the position of Group Head of Building and Engineering:*
 - 1) *in the context of LendLease “making significant changes to [the Engineering and Services Business] including strengthening the leadership”: 9 November 2018 Announcement at p. 1; and*
 - 2) *“to enable [the Engineering and Services Business] to reach their full potential”: 22 August 2018 Briefing Transcript at p.8.*

C.2 October 2017 Continuous Disclosure Contravention

C.2.1 Inadequate Reporting Systems Continuous Disclosure Contravention

40. As at, and from, 17 October 2017, alternatively 21 February 2018, until 9 November 2018 and/or 25 February 2019 the Inadequate Reporting Systems Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
 - (b) a reasonable person would expect to have a material effect on the price or value of LendLease Securities within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
41. By reason of the LendLease Corporation Continuous Disclosure Obligations and/or the LendLease Responsible Entity Continuous Disclosure Obligations and the matters pleaded in paragraph 40, on and from 17 October 2017, alternatively 21 February 2018, LendLease became obliged immediately to tell the ASX the Inadequate Reporting Systems Information.
42. LendLease did not inform the ASX of the Inadequate Reporting Systems Information immediately on 17 October 2017, alternatively 21 February 2018, or at any time prior to 9 November 2018 and/or 25 February 2019.
43. By reason of the matters pleaded in paragraphs 39, and 40 to 42, LendLease contravened ASX Listing Rule 3.1 and s 674(2) and/or ss 674(2) and 674(3) of the Corporations Act (**Inadequate Reporting Systems Continuous Disclosure Contravention**).

D. FEBRUARY 2018 CONTRAVENTIONS

D.1 The February 2018 Representations

44. On 21 February 2018, LendLease published and lodged to the ASX:
- (a) the 1H18 Report; and
 - (b) the 21 February 2018 Presentation.
45. On 21 February 2018, by the 1H18 Report, LendLease represented to the Affected Market that as at 31 December 2017, LendLease had:
- (a) generated a profit after tax of \$425.7M (\$425.6M attributable to security holders) (**1H18 NPAT**);
 - (b) total assets of \$15,792M (**1H18 Assets**);
 - (c) total liabilities of \$9,362.9M (**1H18 Liabilities**),

(together and severally the **1H18 Financial Representations**).

Particulars

- i) The representation referred to in subparagraph (a) above was express, in writing and made in the 1H18 Report at p.1 of Appendix 4D and pp.1, 2, 7, and 8 of the financial report component.*
- ii) The representation referred to in subparagraph (b) above was express, in writing and made in the 1H18 Report at p.3 of the financial report component.*
- iii) The representation referred to in subparagraph (c) above was express, in writing and made in the 1H18 Report at p.3 of the financial report component.*

46. On 21 February 2018, LendLease represented to the Affected Market that the 1H18 Report:

- (a) was prepared in compliance with Australian Accounting Standards and/or the Corporations Act; and
- (b) gave a true and fair view of LendLease's financial position and financial performance in 1H18,

(together and severally the **1H18 Financial Compliance Representations**).

Particulars

- i) The 1H18 Financial Compliance Representations were partly express and partly implied.*
- ii) Insofar as they were express, they were made in writing in the 1H18 Report at pp.6 and 25 of the financial report component.*
- iii) Insofar as they were implied, they were implied by reason of the Statutory Reporting Obligations and the publication by LendLease during the Relevant Period of the 1H18 Report.*

47. LendLease did not, at any time prior to 9 November 2018, make any statement which corrected, qualified or contradicted the 1H18 Financial Representations and/or 1H18 Financial Compliance Representations.

48. The 1H18 Financial Representations, and/or 1H18 Financial Compliance Representations, were continuing representations throughout the Relevant Period.

Particulars

- i) The 1H18 Financial Representations and/or 1H18 Financial Compliance Representations were of their nature likely to be continuing unless and until information was published to the Affected Market which corrected or qualified them.*
- ii) Paragraph 47 is repeated.*

D.2 February 2018 true position and knowledge

D.2.1 Project Issues Information

49. Further and alternatively, by no later than 21 February 2018, alternatively 22 August 2018:

(a) by reason of:

- (i) the cost to complete the NorthConnex Project, including by reason of delay; and/or
- (ii) additional “underperformance” in other projects in the Engineering and Services Business, including delays and defective design work,

(b) it was the fact that, alternatively there was a material risk that:

- (i) a provision materially in excess of \$190 million was required to the Engineering and Services Business; and/or
- (ii) the Engineering and Services Business would recognise a loss for FY2018; and/or
- (iii) the EBITDA margin of the Construction Segment for FY19 and/or FY20 was unlikely to be EBITDA accretive,

(separately, or together in any combination, the **Project Issues Information**).

Particulars

- i) The Plaintiff refers to:*
 - A) On 21 February 2018, LendLease took an approximately \$190m provision against underperforming projects in the Engineering and Services Business: 22 February 2018 Macquarie Report at pp. 1-3;*
 - B) Bouygues (LendLease’s 50/50 joint venture partner on the NorthConnex Project) booked a provision on the*

NorthConnex Project for issues arising in Calendar Year 2018: Macquarie analyst report entitled 'LendLease Group – NorthConnex provision heading north?' dated 14 August 2018 at p.1;

- C) *As at 7 August 2018, Transurban Corporation Limited (LendLease's client for the NorthConnex Project) had:*
- 1) *stated that the project was "under review" and "there is potentially a delay. Obviously [the contractors] are reviewing their delivery schedule": ASX Announcement published and lodged to the ASX by Transurban Corporation Limited on 7 August 2018 entitled 'Transurban Investor Presentation', pp.6 and 25; Macquarie analyst report entitled 'LendLease Group – NorthConnex provision heading north?' dated 14 August 2018 at p.1; and*
 - 2) *"made no secret of the fact that NorthConnex would be late due to what are thought to be geoengineering risks, and the project delivery timetable was" "under review": article entitled 'NorthConnex delays dog LendLease' dated 14 August 2018 in the Australian;*
- D) *In or around late August 2018, LendLease told analysts that it had suffered "logistical and geotechnical challenges" on NorthConnex: article entitled 'NorthConnex opening date still in doubt as LendLease bulks up engineering' dated 28 August 2018 in the Australian Financial Review;*
- E) *On 9 November 2018, LendLease announced to the market that it "identified further underperformance in the financial position of its Engineering and Services Business. To account for this underperformance it is anticipated LendLease will take a provision in the order of \$350 million after tax for 1H19": 9 November 2018 Announcement at p.1.*
- F) *On 16 November 2018, LendLease stated:*
- 1) *"Approximately 90 per cent of the \$350 million post tax provision [arising from underperforming projects in the Engineering and Services Business] relates to three projects" of which the NorthConnex Project was one.*
 - 2) *"Further deterioration on NorthConnex [Project] and two other projects was identified during reviews completed last week."*
 - 3) *In relation to the NorthConnex Project, "productivity rates and costs on recently commenced phases of work have not achieved our estimates and we now have reforecast these costs. We have also reforecast costs arising from an acceleration of the*

mechanical and electrical works, the final major phase of the NorthConnex Project”;

(ASX Announcement published and lodged to the ASX by LendLease on 16 November 2018 entitled ‘2018 Annual General Meetings – Chairman and Chief Executive Officer & Managing Director Addresses’ at p.2 of McCann Address.)

- ii) The particulars to paragraph 38 are otherwise repeated.*
- iii) Further particulars will be provided after discovery.*

50. At all material times in the Relevant Period from 21 February 2018, alternatively 22 August 2018, LendLease was aware (within the meaning of ASX Listing Rule 19.12) of the Project Issues Information.

Particulars

- i) The LendLease Officers (as applicable) ought reasonably to have become aware of the Project Issues Information:*
 - A) by reason of the matters identified in the particulars to paragraph 49;*
 - B) and, otherwise in the course of carrying out their duties.*

D.2.2 Combined Systems and Project Issues Information

51. Further and alternatively, by no later than 21 February 2018, alternatively 22 August 2018, LendLease was aware (within the meaning of ASX Listing Rule 19.12) of the Inadequate Reporting Systems Information and the Project Issues Information (the **Combined Systems and Project Issues Information**).

Particulars

- i) The Plaintiff repeats the particulars to paragraphs 38, 39, 49 and 50.*

D.2.3 1H18 Financial Position and Performance

52. The 1H18 Report, 21 February 2018 Presentation, the 1H18 NPAT, the 1H18 Assets, and/or the 1H18 Liabilities, did not recognise or disclose the Inadequate Reporting Systems Information, Project Issues Information, and/or the Combined Systems and Project Issues Information, in that further provisioning materially in excess of \$190 million was required in respect of the NorthConnex Project and the other projects in the Engineering and Services Business that were experiencing “underperformance” in accordance with AASB 101, AASB 110, and AASB 111.

Particulars

- i) The particulars to paragraphs 38 and 39 are repeated.*
- ii) The particulars to paragraphs 49 and 50 are repeated.*
- iii) Further particulars may be provided after discovery.*

53. By reason of the matters pleaded in paragraphs 45 and 52 above, the 1H18 Report materially:

- (a) overstated the value of the 1H18 NPAT;
- (b) overstated the value of the 1H18 Assets; and/or
- (c) understated the value of the 1H18 Liabilities.

Particulars

- i) On 21 February 2018, LendLease:*
 - A) took an approximately \$190m provision against underperforming projects in the Engineering and Services Business: 22 February 2018 Macquarie Report, pp.1-3;*
 - B) stated that as at 21 February 2018, the underperforming projects were “all at least 50% complete, so obviously we’re working on considerable information from performance to date”: 21 February 2018 Briefing Transcript, p.9;*
 - C) stated that the underperforming projects were impacted by “logistics and geotechnical” problems that were “project-specific”: 21 February 2018 Presentation at p.8 of presentation;*
 - D) stated that it “undertook a review of the engineering portfolio to confirm that these problems were isolated and not more widespread”: 21 February 2018 Briefing Transcript, p.4;*
 - E) stated that “the revenue backlog associated with the underperforming projects accounts for 20% of the total engineering backlog”: 21 February 2018 Briefing Transcript, p.4, and 21 February 2018 Presentation at p.8 of presentation;*
 - F) stated that the underperforming projects would impact margin until completion: 21 February 2018 Presentation at p.8 of presentation; and*
 - G) stated that “[t]he impact of expected losses has been recognised in the result for the period, including the reversal of previously booked margin. These projects will not contribute margin for the remaining lives of the projects and will therefore impact the overall EBITDA margin of the segment until they complete”: 1H18 Report at p.9.*

- ii) *On 9 November 2018, LendLease announced to the market that it had “identified further underperformance in the financial position of its Engineering and Services Business. To account for this underperformance it is anticipated LendLease will take a provision in the order of \$350 million after tax for 1H19”: 9 November 2018 Announcement at p.1.*
- iii) *On 16 November 2018, LendLease stated:*
 - A) *“Approximately 90 per cent of the \$350 million post tax provision [arising from underperforming projects in the Engineering and Services Business] relates to three projects” of which the NorthConnex Project was one.*
 - B) *“Further deterioration on NorthConnex [Project] and two other projects was identified during reviews completed last week.”*
 - C) *In relation to the NorthConnex Project, “productivity rates and costs on recently commenced phases of work have not achieved our estimates and we now have reforecast these costs. We have also reforecast costs arising from an acceleration of the mechanical and electrical works, the final major phase of the NorthConnex Project”;*
(ASX Announcement published and lodged to the ASX by LendLease on 16 November 2018 entitled ‘2018 Annual General Meetings – Chairman and Chief Executive Officer & Managing Director Addresses’ at p.2 of McCann Address.)
- iv) *Further particulars will be provided after discovery.*

54. By reason of the matters in paragraphs 45, and 52 to 53 above, the 1H18 Report:
- (a) was not prepared in compliance with Australian Accounting Standards and/or the Corporations Act; and
 - (b) did not give a true and fair view of LendLease’s financial position and financial performance in 1H18.

Particulars

The 1H18 Report was not prepared in compliance with AASB136, AASB101, AASB110, AASB111, and ss 304 and 305 of the Corporations Act.

D.3 Misleading or deceptive conduct

D.3.1 The 1H18 Financial Representations

55. By reason of the matters pleaded in paragraphs 52 to 53 above, on and from 21 February 2018 in making the 1H18 Financial Representations LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

56. Further or alternatively, by reason of the matters pleaded in paragraphs 52 to 53 above, on and from 21 February 2018, in maintaining and/or failing to correct or qualify the 1H18 Financial Representations, LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
57. The conduct pleaded in paragraphs 44 to 48, 52 to 54, 55 and/or 56, was conduct engaged in by LendLease:
- (a) in relation to financial products (being LendLease Securities), within the meaning of ss 1041H(1) and 1041H(2)(b) of the Corporations Act;
 - (b) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act; and
 - (c) in trade or commerce, within the meaning of s 18 of the Australian Consumer Law.
58. By reason of the matters pleaded in paragraphs 55 and 57 on and from 21 February 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;
 - (b) s 12DA(1) of the ASIC Act; and/or
 - (c) s 18 of the Australian Consumer Law,
- (each being an **1H18 Financial Misleading Representation Contravention**).
59. Further or alternatively, by reason of the matters pleaded in paragraphs 56 and 57, on and from 21 February 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;
 - (b) s 12DA(1) of the ASIC Act; and/or
 - (c) s 18 of the Australian Consumer Law,
- (each being a **1H18 Financial Misleading Silence Contravention**).

D.3.2 1H18 Financial Compliance Representations

60. By reason of the matters pleaded in paragraphs 52 to 54 above, on and from 21 February 2018 in making the 1H18 Financial Compliance Representations LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
61. Further or alternatively, by reason of the matters pleaded in paragraphs 52 to 54 above, on and from 21 February 2018, in maintaining and/or failing to correct or qualify the 1H18 Financial Compliance Representations, LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
62. The conduct pleaded in paragraphs 44 to 48, 52 to 54, and 55 and/or 56, was conduct engaged in by LendLease:
- (a) in relation to financial products (being LendLease Securities), within the meaning of ss 1041H(1) and 1041H(2)(b) of the Corporations Act;
 - (b) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act; and
 - (c) in trade or commerce, within the meaning of s 18 of the Australian Consumer Law.
63. By reason of the matters pleaded in paragraphs 60 and 62 on and from 21 February 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;
 - (b) s 12DA(1) of the ASIC Act; and/or
 - (c) s 18 of the Australian Consumer Law,
- (each being an **1H18 Financial Compliance Misleading Representation Contravention**).
64. Further or alternatively, by reason of the matters pleaded in paragraphs 61 and 62, on and from 21 February 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;
 - (b) s 12DA(1) of the ASIC Act; and/or

(c) s 18 of the Australian Consumer Law,

(each being a **1H18 Financial Compliance Misleading Silence Contravention**).

D.4 February 2018 Continuous Disclosure Contraventions

D.4.1 Project Issues Continuous Disclosure Contravention

65. As at, and from, 21 February 2018, alternatively 22 August 2018, until 9 November 2018, the Project Issues Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of LendLease Securities within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

66. By reason of the LendLease Corporation Continuous Disclosure Obligations and/or the LendLease Responsible Entity Continuous Disclosure Obligations and the matters pleaded in paragraph 65, on and from, 21 February 2018, alternatively 22 August 2018, LendLease became obliged to immediately tell the ASX the Project Issues Information.

67. LendLease did not inform the ASX of the Project Issues Information immediately on 21 February 2018, alternatively on 22 August 2018, or at any time prior to 9 November 2018.

68. By reason of the matters pleaded in paragraphs 50 and 65 to 67, LendLease contravened ASX Listing Rule 3.1 and s 674(2) and/or ss 674(2) and 674(3) of the Corporations Act (**Project Issues Continuous Disclosure Contravention**).

D.4.2 Combined Systems and Project Issues Continuous Disclosure Contravention

69. As at, and from, 21 February 2018, alternatively 22 August 2018, until 9 November 2018, the Combined Systems and Project Issues Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

- (b) a reasonable person would expect to have a material effect on the price or value of LendLease Securities within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
70. By reason of the LendLease Corporation Continuous Disclosure Obligations and/or the LendLease Responsible Entity Continuous Disclosure Obligations and the matters pleaded in paragraph 69, on and from, 21 February 2018, alternatively 22 August 2018, LendLease became obliged to immediately tell the ASX the Combined Systems and Project Issues Information.
71. LendLease did not inform the ASX of the Combined Systems and Project Issues Information immediately on 21 February 2018, alternatively 22 August 2018, or at any time prior to 9 November 2018.
72. By reason of the matters pleaded in paragraphs 51 and 69 to 71, LendLease contravened ASX Listing Rule 3.1 and s 674(2) and/or ss 674(2) and 674(3) of the Corporations Act (**Combined Systems and Project Issues Continuous Disclosure Contravention**).

E. AUGUST 2018 CONTRAVENTIONS

E.1 The August 2018 Representations

E.1.1 The August 2018 Provisioning and Margin Representations

73. On 22 August 2018, LendLease:
- (a) published and lodged to the ASX:
 - (i) the 22 August 2018 Results Presentation comprising:
 - (A) an announcement entitled 'LendLease delivers resilient result, strategic initiatives provide future earnings visibility'; and
 - (B) a presentation entitled '2018 Full Year Results'; and
 - (ii) its '2018 Annual Report', which contained its FY18 Annual Report.
 - (b) conducted a briefing entitled 'Full Year 2018 LendLease Group Earnings Presentation' of which the 22 August 2018 Briefing Transcript is a transcript.

74. By the 22 August 2018 Results Presentation, FY18 Annual Report and 22 August 2018 Briefing Transcript, LendLease represented to the Affected Market that:

- (a) its EBITDA loss from the Engineering and Services Business for FY18 was \$218M, and arose from:
 - (i) the financial impact of the underperformance of a small number of engineering projects, which included the NorthConnex Project; and
 - (ii) a negative impact from a claim in the services business that related to a project completed in 2015;
- (b) while its underperforming projects in the Engineering and Services Business would not make a contribution to margin through to completion, LendLease had recorded in FY18 the full extent of provisioning required for the life of the underperforming projects;
- (c) the NorthConnex Project had been derisked;
- (d) it targeted a FY19 EBITDA margin from the Construction Segment of 3-4% (the **FY19 Construction EBITDA Target**);
- (e) the underperformance in the Engineering and Services Business would suppress the FY19 EBITDA margin of the Construction Segment, and not cause the FY19 EBITDA margin of the Construction Segment to be negative;
- (f) the EBITDA margin of the Construction Segment for FY19 and FY20 would be earnings accretive; and
- (g) the FY19 Construction EBITDA Target was based on reasonable grounds;

(together and severally the **August 2018 Provisioning and Margin Representations**).

Particulars

- i) The representation pleaded in subparagraph (a) above was express and:*
 - A) provided orally and recorded within the 22 August 2018 Briefing Transcript at pp.5 and 8; and*
 - B) contained in writing in the FY18 Annual Report at p.78.*

- ii) *The representation pleaded in subparagraph (b) above was express, provided orally and recorded within the 22 August 2018 Briefing Transcript at p.10.*
- iii) *The representation pleaded in subparagraph (c) above was express, provided orally, and recorded within the 22 August 2018 Briefing Transcript at p.10.*
- iv) *The representation pleaded in subparagraph (d) above was express and contained in writing in the 22 August 2018 Results Presentation at p.6 of the presentation.*
- v) *The representation pleaded in subparagraph (e) above was express and:*
 - A) *contained in writing in the 22 August 2018 Results Presentation at p.18 of the presentation; and*
 - B) *provided orally and recorded within the 22 August 2018 Briefing Transcript at pp.5 and 10.*
- vi) *The representation pleaded in subparagraph (f) above was implied by reason of the express statements identified in i) to v) above.*
- vii) *The representation pleaded in subparagraph (g) above was implied by reason of the express statements identified in i) to v) above.*
- viii) *Insofar as the August 2018 Provisioning and Margin Representations are each representations as to a future matter, s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.*

75. LendLease did not, at any time prior to 25 February 2019, make any statement which fully corrected, qualified or contradicted the August 2018 Provisioning and Margin Representations.

76. The August 2018 Provisioning and Margin Representations were continuing representations throughout the Relevant Period.

Particulars

- i) *The August 2018 Provisioning and Margin Representations were of their nature likely to be continuing unless and until information was published to the Affected Market which corrected or qualified them.*
- ii) *Paragraph 75 is repeated.*

E.1.2 The FY18 Annual Report Representations

77. On 22 August 2018, by the FY18 Annual Report, LendLease represented to the Affected Market that as at 30 June 2018, LendLease had:

- (a) generated a profit after tax of \$793.6M (**FY18 NPAT**);

- (b) had total assets of \$16,963.60M (**FY18 Assets**);
 - (c) had total liabilities of \$10,549.40M (**FY18 Liabilities**),
- (together and severally the **FY18 Financial Representations**).

Particulars

- i) The representation referred to in subparagraph (a) above was express, in writing and made in the FY18 Annual Report at pp.141 and 142.*
 - ii) The representation referred to in subparagraph (b) above was express, in writing and made in the FY18 Annual Report at p.143.*
 - iii) The representation referred to in subparagraph (c) above was express, in writing and made in the FY18 Annual Report at p.143.*
78. On 22 August 2018, LendLease represented to the Affected Market that the FY18 Annual Report:
- (a) was prepared in compliance with Australian Accounting Standards and/or the Corporations Act; and
 - (b) gave a true and fair view of LendLease's financial position and financial performance in FY18,
- (together and severally the **FY18 Financial Compliance Representations**).

Particulars

- i) The FY18 Financial Compliance Representations were partly express and partly implied.*
 - ii) Insofar as they were express, they were made in writing in the FY18 Annual Report at p.196.*
 - iii) Insofar as they were implied, they were implied by reason of the Statutory Reporting Obligations and the publication by LendLease during the Relevant Period of the FY18 Annual Report.*
79. LendLease did not, at any time prior to 9 November 2018 make any statement which corrected, qualified or contradicted the FY18 Financial Representations and/or FY18 Financial Compliance Representations.
80. The FY18 Financial Representations and/or FY18 Financial Compliance Representations were continuing representations throughout the Relevant Period.

Particulars

- i) The FY18 Financial Representations and/or FY18 Financial Compliance Representations were of their nature likely to be continuing unless and until information was published to the Affected Market which corrected or qualified them.*
- ii) Paragraph 79 is repeated.*

E.2 August 2018 true position and knowledge

E.2.1 FY18 Financial Position and Performance

81. Further and alternatively, the FY18 Annual Report, FY18 NPAT, the FY18 Assets, and/or the FY18 Liabilities, did not recognise or disclose the Inadequate Reporting Systems Information, the Project Issues Information, and/or the Combined Systems and Project Issues Information in that further material provision was required in respect of the NorthConnex Project and the other projects in the Engineering and Services Business that were experiencing “underperformance” in accordance with AASB 101, AASB 110, and AASB 111.

Particulars

- i) The particulars to paragraphs 38 and 39 are repeated.*
- ii) The particulars to paragraphs 49 and 50 are repeated.*
- iii) Further particulars will be provided after discovery.*

82. By reason of the matters pleaded in paragraphs 77 and 81 above, the FY18 Annual Report materially:

- (a) overstated the value of the FY18 NPAT;
- (b) overstated the value of the FY18 Assets; and/or
- (c) understated the value of the FY18 Liabilities.

Particulars

- i) The particulars to paragraphs 38 and 39 are repeated.*
- ii) The particulars to paragraphs 49 and 50 are repeated.*
- iii) Further particulars will be provided after discovery.*

83. By reason of the matters in paragraphs 77, and 81 to 82 above, the FY18 Annual Report:

- (a) was not prepared in compliance with Australian Accounting Standards and/or the Corporations Act; and

- (b) did not give a true and fair view of LendLease's financial position and financial performance in FY18.

Particulars

The FY18 Annual Report was not prepared in compliance with AASB136, AASB101, AASB110, AASB111, and ss 296 and 297 of the Corporations Act.

E.3 Misleading or deceptive conduct

E.3.1 August 2018 Provisioning and Margin Representations

84. By reason of the matters pleaded in paragraphs 81 and 82 on and from 22 August 2018, LendLease did not have reasonable grounds for making the August 2018 Provisioning and Margin Representations.
85. By reason of the matters pleaded in paragraph 84 above, on and from 22 August 2018, LendLease, in making the August 2018 Provisioning and Margin Representations engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
86. Further or alternatively, by reason of the matters pleaded in paragraphs 81 and 82 on and from 22 August 2018, in maintaining and/or failing to correct or qualify the August 2018 Provisioning and Margin Representations, LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
87. The conduct pleaded in paragraphs 73 to 76, 84 and 85, and/or 86, was conduct engaged in by LendLease:
- (a) in relation to financial products (being LendLease Securities), within the meaning of ss 1041H(1) and 1041H(2)(b) of the Corporations Act;
 - (b) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act; and
 - (c) in trade or commerce, within the meaning of s 18 of the Australian Consumer Law.
88. By reason of the matters pleaded in paragraphs 84, 85, and 87, on and from 22 August 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;

(b) s 12DA(1) of the ASIC Act; and/or

(c) s 18 of the Australian Consumer Law,

(each being an **August 2018 Provisioning and Margin Misleading Representation Contravention**).

89. Further or alternatively, by reason of the matters pleaded in paragraphs 86 and 87, on and from 22 August 2018, LendLease contravened:

(a) s 1041H of the Corporations Act;

(b) s 12DA(1) of the ASIC Act; and/or

(c) s 18 of the Australian Consumer Law,

(each being an **August 2018 Provisioning and Margin Misleading Silence Contravention**).

E.3.2 The FY18 Financial Representations

90. By reason of the matters pleaded in paragraphs 81 and 82 above, on and from 22 August 2018 in making the FY18 Financial Representations LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

91. Further or alternatively, by reason of the matters pleaded in paragraphs 81 and 82 above, on and from 22 August 2018, in maintaining and/or failing to correct or qualify the FY18 Financial Representations, LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

92. The conduct pleaded in paragraphs 77 to 79, 81, 82, 90 and/or 91, was conduct engaged in by LendLease:

(a) in relation to financial products (being LendLease Securities), within the meaning of ss 1041H(1) and 1041H(2)(b) of the Corporations Act;

(b) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act; and

(c) in trade or commerce, within the meaning of s 18 of the Australian Consumer Law.

93. By reason of the matters pleaded in paragraphs 90 and 92 on and from 22 August 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;
 - (b) s 12DA(1) of the ASIC Act; and/or
 - (c) s 18 of the Australian Consumer Law,
- (each being an **FY18 Financial Misleading Representation Contravention**).
94. Further or alternatively, by reason of the matters pleaded in paragraphs 91 and 92, on and from 22 August 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;
 - (b) s 12DA(1) of the ASIC Act; and/or
 - (c) s 18 of the Australian Consumer Law,
- (each being a **FY18 Financial Misleading Silence Contravention**).

E.3.3 FY18 Financial Compliance Representations

95. By reason of the matters pleaded in paragraphs 81 to 83 above, on and from 22 August 2018 in making the FY18 Financial Compliance Representations LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
96. Further or alternatively, by reason of the matters pleaded in paragraphs 81 to 83 above, on and from 22 August 2018, in maintaining and/or failing to correct or qualify the FY18 Financial Compliance Representations, LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
97. The conduct pleaded in paragraphs 77 to 80, 81 to 83, 95 and/or 96, was conduct engaged in by LendLease:
- (a) in relation to financial products (being LendLease Securities), within the meaning of ss 1041H(1) and 1041H(2)(b) of the Corporations Act;
 - (b) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act; and

(c) in trade or commerce, within the meaning of s 18 of the Australian Consumer Law.

98. By reason of the matters pleaded in paragraphs 95 and 97 on and from 22 August 2018, LendLease contravened:

(a) s 1041H of the Corporations Act;

(b) s 12DA(1) of the ASIC Act; and/or

(c) s 18 of the Australian Consumer Law,

(each being an **FY18 Financial Compliance Misleading Representation Contravention**).

99. Further or alternatively, by reason of the matters pleaded in paragraphs 96 and 97, on and from 22 August 2018, LendLease contravened:

(a) s 1041H of the Corporations Act;

(b) s 12DA(1) of the ASIC Act; and/or

(c) s 18 of the Australian Consumer Law,

(each being a **FY18 Financial Compliance Misleading Silence Contravention**).

F. THE NOVEMBER 2018 CONTRAVENTIONS, DISCLOSURES AND DISCLOSURES IMPACT

F.1 The November 2018 Representations and Disclosures

F.1.1 9 November Representations and Disclosures

100. On 9 November 2018, LendLease:

(a) published and lodged to the ASX the 9 November 2018 Announcement; and

(b) conducted a teleconference briefing with analysts entitled 'LendLease Group Australian Engineering and Services Business Update Call' (**9 November 18 Briefing**).

101. By the 9 November 2018 Announcement and 9 November 2018 Briefing, LendLease disclosed, expressly or by implication, to the Affected Market that:

- (a) it maintained rigorous risk management and conducted a very regular series of project reviews in the normal course of its business;
- (b) it had identified further underperformance in the Engineering and Services Business arising from several projects, including *inter alia* the NorthConnex Project, Gateway Upgrade Project and Kingsford Upgrade Project;
- (c) to account for the further underperformance in the Engineering and Services Business, LendLease would make a further provision in the sum of \$350M after tax;
- (d) the further provision of \$350M after tax was prudent;
- (e) this underperformance predominately related to further deterioration in the small number of projects previously identified, and is attributed to:
 - (i) lower productivity in the post-tunnelling phases of the NorthConnex Project; and
 - (ii) excessive wet weather, access issues and remedial work arising from defective design on other projects;
- (f) LendLease was undertaking a comprehensive review of the Engineering and Services Business in light of the underperformance;
- (g) LendLease had made significant changes to the Engineering and Services Business including strengthening the leadership with the appointment of Mr Dekker in May 2018 as the Group Head of Building and Engineering;
- (h) Mr Dekker was conducting a review to identify processes to reset and strengthen the operations in order to reduce the risk profile, and evaluate alternatives to reduce the volatility of earnings in the Engineering and Services Business;
- (i) the problems in the Engineering and Services Business were systemic, and LendLease did not have adequate cost, financial and/or progress reporting systems in the Engineering and Services Business to enable it to record, provide an accurate assessment, or provide clear visibility to LendLease's current progress and/or current financial performance for the projects in the Engineering and Services Business, such that a provision of \$350M after tax was required; and

- (j) the Construction Segment was unlikely to be EBITDA accretive for FY19 and FY20,

(the **9 November 2018 Disclosures**).

Particulars

- i) The disclosures in subparagraphs (a) and (d) were provided orally and recorded within the transcript of the 9 November 2018 Briefing at pp.3, 5 and 7; and*
- ii) The disclosures in subparagraphs (b), (c), and (e) to (h) were express, in writing and contained within the 9 November 2018 Announcement at p. 1.*
- iii) The disclosure in subparagraph (i) was implied by reason of the:*
 - A) the express disclosures identified in i) and ii) above; and*
 - B) the express disclosures identified in i) and ii) above in the context of the matters particularised in i) to iii) of paragraph 38 above.*
- iv) The disclosure in subparagraph (j) was implied by reason of the express disclosures identified in i) and ii) above.*

102. By the 9 November 2018 Disclosures and 9 November 2018 Briefing, LendLease represented to the Affected Market that:

- (a) the project reviews conducted by LendLease were rigorous and sufficient to identify and quantify the underlying impact of the underperforming Engineering and Services Business;
- (b) LendLease was able to accurately quantify the financial impact arising from the underperformance of the Engineering and Services Business;
- (c) the further provision in the sum of \$350M after tax for the underperformance of the Engineering and Services Business was prudent and sufficient to accurately quantify the impact of the underperformance of the Engineering and Services Business; and/or
- (d) there was unlikely to be further deterioration, or a material risk of further deterioration, in the financial position and performance of the Engineering and Services Business,

(together and severally the **9 November 2018 Representations**).

Particulars

- i) *The representations pleaded in subparagraphs (a) to (c) above were partly express and partly implied:*
 - A) *insofar as the representations were express, the Plaintiff refers to the matters pleaded in paragraph 101 above.*
 - B) *insofar as the representations were implied, they were implied by the statements referred to in paragraph 101 above;*
- ii) *The representation pleaded in subparagraph (d) above was implied by the statements referred to in paragraph 101;*
- iii) *Insofar as the 9 November 2018 Representations are each representations as to a future matter, s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.*

103. LendLease did not, at any time prior to 25 February 2019, make any statement which corrected, qualified or contradicted the 9 November 2018 Representations.
104. The 9 November 2018 Representations were continuing representations throughout the period 9 November 2018 to 25 February 2019.

Particulars

- i) *The 9 November 2018 Representations were of their nature likely to be continuing unless and until information was published to the Affected Market which corrected or qualified them.*
- ii) *Paragraph 103 is repeated.*

F.1.2 16 November 2018 Representations

105. On 16 November 2018, LendLease published and lodged to the ASX the 16 November 2018 Chairman Address.
106. By the 16 November 2018 Chairman Address, LendLease repeated to the Affected Market the 9 November 2018 Representations (the **16 November 2018 Representations**).

Particulars

- i) *16 November 2018 Chairman Address, p.9.*

F.2 November 2018 true position and knowledge

F.2.1 Continuing Systems and Project Issues Information

107. By no later than 9 November 2018, it was the fact that, alternatively there was a material risk that:

- (a) The project reviews conducted by LendLease into the Engineering and Services Business were not rigorous and sufficient to identify and quantify the full extent of the financial impact arising from the underperformance of the Engineering and Services Business;
- (b) LendLease remained unable to accurately quantify the financial impact arising from the underperformance of the Engineering and Services Business insofar as LendLease did not have adequate cost, financial and/or progress reporting systems in the Engineering and Services Business to enable it to record, provide an accurate assessment, or provide clear visibility to LendLease's current progress or financial performance for the projects in the Engineering and Services Business;
- (c) the further provision in the sum of \$350M after tax for the underperformance of the Engineering and Services Business was not prudent and sufficient to accurately quantify the impact of the underperformance of the Engineering and Services Business; and/or
- (d) there was likely to be further deterioration, or a material risk of further deterioration, in the financial position and performance of the Engineering and Services Business, such that the provision of \$350M did not sufficiently account for the costs of completing the projects,

(separately, or together in any combination, the **Continuing Systems and Project Issues Information**).

Particulars

- i) *The Plaintiff refers to:*
 - A) *the matters pleaded in paragraph 137 below, and in particular, the fact that the estimated restructure costs of between \$450 million and \$550 million pre-tax for the Engineering and Services Business:*
 - (a) *included costs to conclude customer contracts, including costs of 'potentially someone stepping into one or more of [LendLease's] contracts' that was 'synonymous with some forms of indemnity';*
 - (b) *primarily related to the NorthConnex Project, the Gateway Upgrade Project, and the Kingsford Upgrade Project; and*
 - (c) *reflected a full estimated cost of completing the projects which were well advanced and were*

expected to be completed by the end of calendar year 2020.

- B) The analyst report from Macquarie Group entitled 'Build a Bridge' and dated 25 February 2019 which stated "the surprise was \$450-550m of 'separation costs'. While these include employee, technology and advisory costs, the bulk appears to be 'costs to conclude customer contracts'. This is a big number that concerned the market."*
- A) The analyst report from UBS entitled 'LendLease Group-UBS Snapshot: 1H19 Result' and dated 25 February 2019 which stated '... the \$450-550m costs to exit the business and complete customer contracts are higher than expected.'*
- B) The analyst report from Macquarie entitled 'Tunnel Vision' dated 21 May 2019 which stated 'We estimate separation costs for the 5,500 employees would cost ~\$172m. This represents ~34% of the identified remediation costs in isolation', with the balance of the costs including costs to conclude customer contracts. The report also included a further "provision / indemnity payment" for the Melbourne Metro Project of \$300m in its assessment of the worth of the Engineering business.*

ii) Further particulars will be provided after discovery.

108. At all material times in the Relevant Period from 9 November 2018, LendLease was aware (within the meaning of ASX Listing Rule 19.12) of the Continuing Systems and Project Issues Information.

Particulars

- i) The LendLease Officers (as applicable) ought reasonably to have become aware of the Continuing Systems and Project Issues Information:
 - A) by reason of the review it stated it had conducted in the 9 November 2018 Announcement and 9 November 2018 Briefing as referred to in paragraphs 101(a) and (b) above.*
 - B) and, otherwise in the course of carrying out their duties.**

F.3 Misleading or deceptive conduct

F.3.1 The 9 November 2018 Representations

109. By reason of the Continuing Systems and Project Issues Information, on and from 9 November 2018, in making the 9 November 2018 Representations, LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

110. Further or alternatively, by reason of the Continuing Systems and Project Issues Information, on and from 9 November 2018, in maintaining and/or failing to correct or qualify the 9 November 2018 Representations, LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
111. The conduct pleaded in paragraphs 100 to 104, and 109 and/or 110, was conduct engaged in by LendLease:
- (a) in relation to financial products (being LendLease Securities), within the meaning of ss 1041H(1) and 1041H(2)(b) of the Corporations Act;
 - (b) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act; and
 - (c) in trade or commerce, within the meaning of s 18 of the Australian Consumer Law.
112. By reason of the matters pleaded in paragraphs 109 and 111 on and from 9 November 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;
 - (b) s 12DA(1) of the ASIC Act; and/or
 - (c) s 18 of the Australian Consumer Law,
- (each being an **9 November 2018 Misleading Representation Contravention**).
113. Further or alternatively, by reason of the matters pleaded in paragraphs 110 and 111 on and from 9 November 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;
 - (b) s 12DA(1) of the ASIC Act; and/or
 - (c) s 18 of the Australian Consumer Law,
- (each being a **9 November 2018 Financial Misleading Silence Contravention**).

F.3.2 The 16 November 2018 Representations

114. By reason of the Continuing Systems and Project Issues Information, on and from 16 November 2018, in making the 16 November 2018 Representations, LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
115. Further or alternatively, by reason of the Continuing Systems and Project Issues Information, on and from 16 November 2018, in maintaining and/or failing to correct or qualify the 16 November 2018 Representations, LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
116. The conduct pleaded in paragraphs 105 to 106, and 114 and/or 115, was conduct engaged in by LendLease:
- (a) in relation to financial products (being LendLease Securities), within the meaning of ss 1041H(1) and 1041H(2)(b) of the Corporations Act;
 - (b) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act; and
 - (c) in trade or commerce, within the meaning of s 18 of the Australian Consumer Law.
117. By reason of the matters pleaded in paragraphs 114 and 116 on and from 16 November 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;
 - (b) s 12DA(1) of the ASIC Act; and/or
 - (c) s 18 of the Australian Consumer Law,
- (each being an **16 November 2018 Misleading Representation Contravention**).
118. Further or alternatively, by reason of the matters pleaded in paragraphs 115 and 116 on and from 16 November 2018, LendLease contravened:
- (a) s 1041H of the Corporations Act;
 - (b) s 12DA(1) of the ASIC Act; and/or
 - (c) s 18 of the Australian Consumer Law,

(each being a **16 November 2018 Misleading Silence Contravention**).

F.4 November 2018 Continuous Disclosure Contraventions

F.4.1 Continuing Systems and Project Issues Continuous Disclosure Contravention

119. As at, and from, 9 November 2018 until 25 February 2019 the Continuing Systems and Project Issues Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of LendLease Securities within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

120. By reason of the LendLease Corporation Continuous Disclosure Obligations and/or the LendLease Responsible Entity Continuous Disclosure Obligations and the matters pleaded in paragraph 119, on and from, 9 November 2018, LendLease became obliged immediately to tell the ASX the Continuing Systems and Project Issues Information.

121. LendLease did not inform the ASX of the Continuing Systems and Project Issues Information immediately on 9 November 2018, or at any time prior to 25 February 2019.

122. By reason of the matters pleaded in paragraphs 108 and 119 to 121, LendLease contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act (**Continuing Systems and Project Issues Continuous Disclosure Contravention**).

F.5 The price impact of the 9 November 2018 disclosures

123. On 9 November 2018, following and as a result of the 9 November 2018 Disclosures, Moody's Investor Services issued, after the close of trading that day, a credit outlook downgrade for LendLease from "stable" to "negative" (**Moody's Downgrade**).

124. After 9 November 2018, following the 9 November 2018 Disclosures and the Moody's Downgrade the price of LendLease Securities declined substantially.

Particulars

- i) *On 9 November 2018, the price of LendLease Stapled Securities declined by \$3.20 (18.34%), and the price of LendLease ADRs declined by USD\$2.26 (17.94%);*

- ii) *On 12 November 2018, the price of LendLease Stapled Securities declined by a further \$0.90 (6.32%), and the price of LendLease ADRs declined by USD\$0.86 (8.37%); and*
- iii) *On 13 November 2018, the price of LendLease Stapled Securities declined by a further \$0.63 (4.72%), and the price of LendLease ADRs declined by USD\$0.14 (1.48%).*

G. CONTINUOUS DISCLOSURE REPRESENTATIONS

G.1 LendLease continuous disclosure statements

- 125. At all times during the Relevant Period to 21 August 2018, LendLease published on its website, and published and lodged to the ASX, the 2017 Corporate Governance Statement that had been approved by the Board of LendLease (**2017 Corporate Governance Statement**).
- 126. At all times during the Relevant Period from 22 August 2018, LendLease published on its website, and published and lodged to the ASX, the 2018 Corporate Governance Statement that had been approved by the Board of LendLease (**2018 Corporate Governance Statement**).
- 127. At all times during the Relevant Period, LendLease published on its website External Communications and Continuous Disclosure Policy that had been approved by the Board of LendLease on 16 February 2011 (**Continuous Disclosure Policy**).
- 128. In the 2017 Corporate Governance Statement and the 2018 Corporate Governance Statement, LendLease stated that:
 - (a) LendLease has a Continuous Disclosure Policy so that LendLease complies with the continuous disclosure obligations set out in the ASX Listing Rules;
 - (b) the Continuous Disclosure Policy:
 - (i) explains the continuous disclosure obligations of LendLease, the procedure to be followed when information needs to be disclosed to the market, contains guidance on how to identify information which may fall within the disclosure requirements and the consequences of breaching the Policy;
 - (ii) sets out the protocols applicable to Directors, executive officers and employees designed to ensure that LendLease complies with these continuous disclosure obligations;

- (iii) sets out management accountabilities for ensuring that the market is fully informed as well as procedures governing analyst briefings and public comment by Group spokespersons;
 - (iv) the Corporate Disclosure Manager is responsible for employee education on continuous disclosure obligations, external communications, monitoring of market information in relation to LendLease, maintaining records of information released to the market and ensuring that information on the LendLease website is up to date;
- (c) LendLease recognises that whilst there is a legal obligation of disclosure there is also an ethical obligation to securityholders to ensure that investor confidence is maintained through full and timely communication and disclosure to securityholders and the market;
- (d) the Continuous Disclosure Policy is designed to facilitate this objective, and promotes effective communication with securityholders by ensuring that information that may otherwise be important to a securityholder, such as information about the Group's activities, is available to investors in a timely and readily accessible manner;
- (e) any announcements made on the ASX are posted on the LendLease website as soon as practicable following confirmation of receipt by the ASX.

Particulars

- i) 2017 Corporate Governance Statement at p.11.*
- ii) 2018 Corporate Governance Statement at p.11.*

129. In the Continuous Disclosure Policy, LendLease stated that:

- (a) LendLease is committed to ensuring that its shareholders and the market are provided, in a timely manner, with relevant and accurate information about its activities so that investors may be confident that trade in LendLease Securities takes place in a competitive, efficient and informed market.
- (b) LendLease is listed on the ASX. These protocols are designed to comply with the ASX Listing Rules and the Corporations Act.
- (c) these protocols have been prepared to assist directors and officers of LendLease to meet their continuous disclosure obligations and are applicable to all

employees of the LendLease group of companies. It is essential that all employees are vigilant in relation to LendLease's continuous disclosure obligations and comply with the prescribed procedures.

- (d) LendLease must disclose information to the ASX immediately if:
 - (i) a director or officer of LendLease becomes aware of information; and
 - (ii) a reasonable person would expect that information to have a *material effect* on the LendLease Security price or value. Information will have a "*material effect*" on the LendLease Security price or value if it would be likely to influence persons who commonly invest in securities in deciding whether to buy or sell the securities.
- (e) in certain circumstances LendLease is permitted not to disclose information or to delay disclosure of information. The Group General Counsel will, *without exception*, be responsible for determining whether information is not required to be disclosed or whether the disclosure of information should be delayed.
- (f) in the event LendLease makes an inadvertent disclosure, or a disclosure which it subsequently determines to be incorrect, the Corporate Disclosure Manager must advise the Group General Counsel who will immediately issue a retraction or correction to the market stating, where applicable, those matters which were not correct.
- (g) the Managing Director has primary responsibility for ensuring that LendLease complies with its continuous disclosure obligations. The Corporate Disclosure Manager, Company Secretary and Group General Counsel provide support to the Managing Director to ensure that LendLease complies with its continuous disclosure obligations.
- (h) the Corporate Disclosure Manager is responsible for employee education on continuous disclosure obligations, external communications, monitoring of market information in relation to LendLease, maintaining records of information released to the market and ensuring that information on the LendLease's website is up to date.
- (i) these protocols apply to LendLease directors, officers and all employees of the LendLease group.

- (j) continuous disclosure obligations apply to information which LendLease directors and officers are aware of, or ought to be aware of, and may be triggered at anytime and anywhere within the Group's businesses. Directors and officers are therefore required to:
 - (i) have in place reporting systems which are adequate to bring to their immediate attention information which may be required to be disclosed; and
 - (ii) ensure that all employees are aware of these continuous disclosure protocols.

Particulars

- i) The representations referred to in subparagraphs (a)-(j) was express, in writing and made in the External Communications and Continuous Disclosure Policy at pp. 1-2.*

130. LendLease did not, at any time prior to 9 November 2018 and/or 25 February 2019, make any statement which corrected, qualified or contradicted the statements pleaded in paragraphs 128 to 129 above.

G.2 Continuous Disclosure Representations

131. By the matters pleaded in paragraphs 125 to 130, LendLease continuously represented to the Affected Market throughout the Relevant Period that LendLease was in compliance with the LendLease Corporation Continuous Disclosure Obligations and/or the LendLease Responsible Entity Continuous Disclosure Obligations (**Continuous Disclosure Compliance Representation**).

Particulars

- i) The Continuous Disclosure Compliance Representation was partly express and partly implied.*
- ii) To the extent it was express, the Plaintiff refers to the statements identified in paragraphs 128 to 129.*
- iii) To the extent it was implied, it is to be implied from:*
 - A) at all times, LendLease listing on the ASX which required adherence to ASX Listing Rule 3.1; and*
 - B) the statements identified in paragraphs 128 to 129.*

132. The Continuous Disclosure Compliance Representation was a continuing representation throughout the Relevant Period.

Particulars

- i) *The Continuous Disclosure Compliance Representation was of its nature likely to be continuing unless and until information was published to the Affected Market which corrected or qualified it.*

G.3 Misleading or deceptive conduct

133. The conduct pleaded in paragraphs 125 to 132 (including the making of the Continuous Disclosure Compliance Representation) was conduct engaged in by LendLease:

- (a) in relation to financial products (being LendLease Securities), within the meaning of ss 1041H(1) and 1041H(2)(b) of the Corporations Act;
- (b) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act; and
- (c) in trade or commerce, within the meaning of s 18 of the Australian Consumer Law.

134. By reason of the matters pleaded in:

- (a) paragraphs 38 and 40 to 43;
- (b) paragraphs 49 and 65 to 68;
- (c) paragraphs 51 and 69 to 72; and/or
- (d) paragraphs 107 and 119 to 122,

on and from 17 October 2017, alternatively 21 February 2018, alternatively 22 August 2018, alternatively 9 November 2018, in making, maintaining and/or failing to correct or qualify the Continuous Disclosure Compliance Representation, LendLease engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

135. By reason of the matters pleaded in paragraphs 133 and 134, on and from 17 October 2017, alternatively 21 February 2018, alternatively 22 August 2018, alternatively 9 November 2018 LendLease contravened:

- (a) s 1041H of the Corporations Act;
- (b) s 12DA(1) of the ASIC Act; and/or

(c) s 18 of the Australian Consumer Law,

(each such contravention of such provisions being a **Continuous Disclosure Compliance Misleading Conduct Contravention**).

H. THE FEBRUARY 2019 DISCLOSURES AND THEIR IMPACT

H.1 The February 2019 Disclosures

136. On 25 February 2019, LendLease:

- (a) published and lodged to the ASX the 25 February 2019 Presentation; and
- (b) conducted a teleconference briefing entitled 'Half Year 2019 LendLease Group Earnings Presentation' (**25 February 2019 Briefing**).

137. By the 25 February 2019 Presentation and 25 February 2019 Briefing, LendLease disclosed to the Affected Market that:

- (a) a review of the Engineering and Services Business determined that the business is non-core, and was no longer a required part of LendLease's strategy;
- (b) the review concluded that it was in the best interests of clients, employees and securityholders to consider alternatives that would allow both the Engineering and Services Business and LendLease to focus on their core competitive advantages;
- (c) to allow the Engineering and Services Business to continue to participate in the transport engineering sector while alternatives are considered, LendLease was implementing a lower risk profile business strategy;
- (d) as LendLease worked through the implications of this decision, it estimated that it may incur future restructure costs of between \$450 million and \$550 million pre-tax;
- (e) these restructuring costs may include implementation costs such as technology and systems costs, employee costs and advisory costs, and costs to conclude customer contracts as a result of LendLease's decision;

- (f) the \$500 million pre-tax impact from expected losses announced in November 2018 primarily related to 3 engineering projects: the NorthConnex Project, the Gateway Upgrade Project, and the Kingsford Upgrade Project;
- (g) the \$500 million amount referred to in the preceding subparagraph reflected a full estimated cost of completing the projects which were well advanced and were expected to be completed by the end of calendar year 2020. There was no additional provision taken at 31 December 2018;
- (h) the cost of completing the projects included costs of 'potentially someone stepping into one or more of [LendLease's] contracts' that was 'synonymous with some forms of indemnity'; and
- (i) the problems in the Engineering and Services Business were systemic, and LendLease did not have adequate cost, financial and/or progress reporting systems in the Engineering and Services Business to enable it to record, provide an accurate assessment, or provide clear visibility to LendLease's current progress and/or current financial performance for the projects in the Engineering and Services Business, such that the provision of \$350M after tax announced on 9 November 2018 was not sufficient to account for the potential costs of completing the projects,

(the **25 February 2019 Disclosures**).

Particulars

- i) The disclosures in subparagraphs (a) to (e) were express, in writing and made orally. Insofar as they were in writing, they were contained within the 25 February 2019 Presentation, pp. 1 and 3. Insofar as they were provided orally see 25 February 2019 Briefing Transcript at p.3.*
- ii) The disclosures in subparagraphs (f) to (g) were express and made orally: 25 February 2019 Briefing Transcript, p.8.*
- iii) The disclosure in subparagraph (h) as express and made orally: 25 February 2019 Briefing Transcript, p.9.*
- iv) The disclosure in subparagraph (i) was implied by reason of the express disclosures in subparagraphs (d) to (h).*

H.2 The impact of the 25 February 2019 disclosures

138. After 25 February 2019, following the 25 February 2019 Disclosures, the price of LendLease Securities declined substantially.

Particulars

- i) *On 25 February 2019, the price of LendLease Stapled Securities declined by \$0.91 (6.41%), and the price of LendLease ADRs declined by USD\$0.57 (5.62%);*
- ii) *On 26 February 2019, the price of LendLease Stapled Securities declined by a further \$0.43 (3.24%), and the price of LendLease ADRs declined by USD\$0.38 (4.00%); and*
- iii) *On 27 November 2019, the price of LendLease Stapled Securities declined by a further \$0.09 (0.70%), and the price of LendLease ADRs declined by USD\$0.14 (1.54%).*

I. CONTRAVENING CONDUCT CAUSED LOSS

I.1 Market-based causation

139. The Plaintiff and some Group Members acquired an interest in LendLease Stapled Securities in a market of investors or potential investors in LendLease Stapled Securities:

- (a) operated by the ASX;
- (b) regulated by, inter alia, ss 674(2) and 674(3) of the Corporations Act and ASX Listing Rule 3.1;
- (c) where the price or value of LendLease Stapled Securities would reasonably be expected to have been informed or affected by information disclosed in accordance with ss 674(2) and 674(3) of the Corporations Act and ASX Listing Rule 3.1;
- (d) where material information had not been disclosed, which a reasonable person would expect, had it been disclosed, would have had a material adverse effect on the price or value of LendLease Stapled Securities (namely the information the subject of the Inadequate Reporting Systems Continuous Disclosure Contravention, Project Issues Continuous Disclosure Contravention, Combined Systems and Project Issues Information, and Continuing Systems and Project Issues Continuous Disclosure Contravention) (together, the **Contravening Omissions**);
- (e) where misleading or deceptive conduct had occurred, namely (from 17 October 2017) the conduct the subject of the Continuous Disclosure Compliance Misleading Conduct Contravention, (from 21 February 2018) the conduct the subject of the 1H18 Financial Misleading Representation Contravention, 1H18

Financial Misleading Silence Contravention, 1H18 Financial Compliance Misleading Representation Contravention and 1H18 Financial Compliance Misleading Silence Contravention, (from 22 August 2018) the conduct the subject of the August 2018 Provisioning and Margin Misleading Representation Contravention, August 2018 Provisioning and Margin Misleading Silence Contravention, FY18 Financial Misleading Representation Contravention, FY18 Financial Misleading Silence Contravention, FY18 Financial Compliance Misleading Representation Contravention and FY18 Financial Compliance Misleading Silence Contravention, (from 9 November 2018) the conduct the subject of the 9 November 2018 Misleading Representation Contravention and 9 November 2018 Misleading Silence Contravention, and (from 16 November 2018) the conduct the subject of the 16 November 2018 Misleading Representation Contravention and 16 November 2018 Misleading Silence Contravention (or any of them) (together **Other Contravening Conduct**), that a reasonable person would expect to have a material effect on the price or value of LendLease Stapled Securities insofar as, if they had not been made, no investors or potential investors in LendLease Stapled Securities would have been in a position to read or rely upon them; and

- (f) in which during the Relevant Period each or a combination of:
- (i) the Inadequate Reporting Systems Continuous Disclosure Contravention;
 - (ii) the Project Issues Continuous Disclosure Contravention;
 - (iii) the Combined Systems and Project Issues Continuous Disclosure Contravention;
 - (iv) the Continuous Disclosure Compliance Misleading Conduct Contravention;
 - (v) the 1H18 Financial Misleading Representation Contravention;
 - (vi) the 1H18 Financial Misleading Silence Contravention;
 - (vii) the 1H18 Financial Compliance Misleading Representation Contravention;
 - (viii) the 1H18 Financial Compliance Misleading Silence Contravention;

- (ix) the August 2018 Provisioning and Margin Misleading Representation Contravention;
- (x) the August 2018 Provisioning and Margin Misleading Silence Contravention;
- (xi) the FY18 Financial Misleading Representation Contravention;
- (xii) the FY18 Financial Misleading Silence Contravention;
- (xiii) the FY18 Financial Compliance Misleading Representation Contravention;
- (xiv) the FY18 Financial Compliance Misleading Silence Contravention;
- (xv) the 9 November 2018 Misleading Representation Contravention;
- (xvi) the 9 November 2018 Misleading Silence Contravention;
- (xvii) the 16 November 2018 Misleading Representation Contravention;
- (xviii) the 16 November 2018 Misleading Silence Contravention; and
- (xix) the Continuing Systems and Project Issues Continuous Disclosure Contravention,

(each being a **Market Contravention**) caused or materially contributed to the market price of LendLease Stapled Securities being greater than their true value and/or the market price that would have prevailed but for the Market Contraventions, from the respective dates that those Market Contraventions commenced, as pleaded in this Commercial List Statement.

Particulars

- i) The extent to which the Market Contraventions caused the market price for LendLease Stapled Securities to be greater than their true value and/or the market price that would otherwise have prevailed (that is, inflated) during the Relevant Period is a matter for evidence, particulars of which will be served immediately following the Plaintiff filing opinion evidence in the proceeding.*

140. The decline in the price of LendLease Securities pleaded in paragraphs 124 and 138 above:

- (a) was caused or materially contributed to by:

- (i) the market's reaction to the information communicated to the Affected Market in the 9 November 2018 Disclosures and 25 February 2019 Disclosures in the context of what had been communicated to the Affected Market prior to those announcements; and
 - (ii) the Market Contraventions; and
- (b) would, to the extent it removed inflation from the price of LendLease Stapled Securities, have occurred, or substantially occurred, earlier if:
- (i) LendLease had disclosed to the Affected Market the information that was the subject of Contravening Omissions; and/or
 - (ii) LendLease had not engaged in the Other Contravening Conduct.

Particulars

- i) The extent to which inflation was removed from the price of LendLease Securities, and would have been removed at earlier points in time during the Relevant Period is a matter for evidence, particulars of which will be served immediately following the Plaintiff filing expert evidence.*

141. The price at which LendLease ADRs traded on the OTC Market in the United States of America reflected the price of LendLease Stapled Securities and the exchange rate between Australian Dollars and United States Dollars.

I.2 Reliance

142. Further, or in the alternative to paragraphs 140 and 141:

- (a) the Plaintiff and some Group Members would not have entered into the transactions pursuant to which they acquired an interest in LendLease Securities if they had known the information the subject of the Contravening Omissions; and/or
- (b) the Plaintiff and some Group Members relied on some or all of the Other Contravening Conduct in entering into the transactions pursuant to which they acquired an interest in LendLease Securities.

Particulars

- i) The Plaintiff would not have entered into the transactions pursuant to which it acquired an interest in LendLease Securities had it known the information the subject of the*

Contravening Omissions and, it relied upon the Other Contravening Conduct.

- ii) The identities of all those Group Members which or who would not have entered into the transactions pursuant to which they acquired an interest in LendLease Securities, had they known of any or all of the information that was the subject of the Contravening Omissions and/or which or who relied on any or all of the Other Contravening Conduct are not known within the current state of the Plaintiff's knowledge and cannot be ascertained unless and until those advising the Plaintiff take detailed instructions from all Group Members on individual issues relevant to the determination of those individual Group Members' claims; those instructions will be obtained (and particulars of the identity of those Group Members will be provided) following opt out, the determination of the Plaintiff claim and identified common issues at an initial trial and if and when it is necessary for a determination to be made of the individual claims of those Group Members.*

I.3 Loss or damage suffered by the Plaintiff and Group Members

- 143. By reason of the matters pleaded in paragraphs 139 to 141 and/or 142 the Plaintiff and Group Members have suffered loss and damage by and resulting from the Market Contraventions (or any one or combination of them).

Particulars

- i) The loss suffered by the Plaintiff will be calculated by reference to:
 - A) the difference between the price at which LendLease Securities were acquired by the Plaintiff during the Relevant Period and the true value of that interest; or*
 - B) the difference between the price at which the Plaintiff acquired LendLease Securities and the market price that would have prevailed had the Market Contraventions not occurred; or*
 - C) alternatively, the days during the Relevant Period where the traded price of LendLease Securities fell as a result of the disclosure information which had not previously been disclosed because of the Market Contraventions, and the quantum of that fall; or*
 - D) alternatively, the days after the Relevant Period when the traded price of LendLease Securities fell as a result of the disclosure of information which had not previously been disclosed because of the Market Contraventions, and the quantum of that fall;*
 - E) alternatively, the difference between the price at which LendLease Securities were acquired by the Plaintiff and the price in left in hand.**

- ii) *Further particulars in relation to the Plaintiff's losses will be provided after the service of evidence in chief.*
- iii) *Particulars of the losses of Group Members are not known within the current state of the Plaintiff's knowledge and cannot be ascertained unless and until those advising the Plaintiff take detailed instructions from all Group Members on individual issues relevant to the determination of those individual Group Members' claims; those instructions will be obtained (and particulars of the losses of those Group Members will be provided) following opt out, the determination of the Plaintiff's claim and identified common issues at an initial trial and if and when it is necessary for a determination to be made of the individual claims of those Group Members.*

D. QUESTIONS APPROPRIATE FOR REFERRAL TO REFEREE

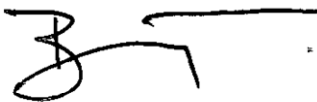
- 1. None.

E. MEDIATION

- 1. The parties have not attempted mediation. The Plaintiff is willing to proceed to mediation at an appropriate time.

SIGNATURE

Signature of legal representative

A handwritten signature in black ink, consisting of a stylized initial 'B' followed by a horizontal line and a vertical stroke.

Capacity Solicitor on the Record

Date of signature 6 August 2019